

**S172199**

**IN THE SUPREME COURT OF THE STATE OF CALIFORNIA**

\*\*\*\*\*

FORD GREENE,

Plaintiff and Appellant,

vs.

MARIN COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT,

Defendant and Respondent;

FLOOD MITIGATION LEAGUE OF ROSS VALLEY AND FRIENDS OF THE  
CORTE MADERA CREEK WATERSHED,

Intervenors and Respondents.

\*\*\*\*\*

Review of Decision by the Court of Appeal for the First Appellate District  
(Case No. A120228)

\*\*\*\*\*

Superior Court of the State for the County of Marin  
Honorable Lynn Duryee, Judge Presiding  
(Case No. CV 073767)

\*\*\*\*\*

**APPELLANT'S REQUEST FOR JUDICIAL NOTICE**

**VOLUME 1 (Exhibits 1-8)**

\*\*\*\*\*

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**SUPREME COURT  
FILED**  
OCT 09 2009  
Frederick K. Ohlrich Clerk  
Deputy

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**APPELLANT'S REQUEST FOR JUDICIAL NOTICE; DECLARATION OF  
MARIA A. SANDERS; MEMORANDUM OF POINTS AND AUTHORITIES IN  
SUPPORT THEREOF**

\*\*\*\*\*

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Appellant in Pro Per

Pursuant to Evidence Code sections 450, 452 (c), 453 and 459 and Rule 8.252, California Rules of Court, appellant hereby moves the Court to take judicial notice of documents listed below.

The exhibits attached hereto and inventories below are true and correct copies of the documents obtained by counsel for appellant from Legislative Intent Service (“LIS”) of Woodland, California, which pertain to the voters’ enactment by initiative of Proposition 218, the Right to Vote on Taxes Act, which now is article XIII D of the California Constitution.

The documents are described, and indicated, under penalty of perjury, to be true and correct copies of the originals in the declaration of Maria A. Sanders, attorney for LIS, attached hereto.

Appellant is requesting the Court to take judicial notice of these documents pursuant to Evidence Code section 450, 452 (c), 453 and 459.

For ready reference of the Court and counsel, each document listed here employs the same exhibit designations as set forth in the Sanders declaration.

- Exhibit 1      Excerpt regarding Proposition 218 from the November 5, 1996 General Election California Ballot Pamphlet, prepared by the Secretary of State
- Exhibit 2      Staff summery report of “November 1996 Ballot, Proposition 218: Right to Vote on Taxes Act,” prepared by the Senate Committees on Local Government and Revenue and Taxation, dated September 1996
- Exhibit 3      “Overview of Proposition 218, ‘The Right to Vote on Taxes Initiative,’” presented to the Senate Local Government Committee, dated September 24, 1996 and “Understanding Proposition 218,” dated December, 1996
- Exhibit 4      “Proposition 218: Voter Approval for Government Taxes. Limitation on Fees, Assessments, and Charges. Vote: Yes 56.55 No 43.45” of the November 5, 1996 General Election

November 5, 1996 General Election

- Exhibit 5 Intentionally omitted
- Exhibit 6 Two articles from Cal-Tax Digest published by the California Taxpayers Association
- Exhibit 7 Articles from the League of Women Voters of California regarding Proposition 218 of 1996
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- Exhibit 10 Intentionally omitted
- Exhibit 11 Intentionally omitted

**Volume 2**

- Exhibit 12a 218 – Local Taxes – CalJournal – Prop. 218
- Exhibit 12b Metropolitan Project: Colantuono, M.G. “The Implications of Proposition 218 on Local Government Finance in California. 9/17/97
- Exhibit 12c Metropolitan Project: Hsu, V. “The Looming Local Transportation Finance Crisis: Will Prop. 62 & 218 Doom Future Local Funding?
- Exhibit 12d City of Sunnyvale: Proposition 218 Watched Closely
- Exhibit 12e California Tax Data: What is Proposition 218?
- Exhibit 12f California Communities Program: Proposition 218: How it Works and What it Means.
- Exhibit 12g California Online Voter Guide
- Exhibit 12h California Online Voter Guide: Voter Approval for Local Government Taxes. Limitations on Fees, Assessments and Charges
- Exhibit 12i Citizens for Economic Progress: State Initiatives Summary
- Exhibit 13 Governor’s Office of Planning and Research: A Planner’s Guide to Financing Public Improvements

- Exhibit 14 Legislative Analyst's Office: Hill, E.G., "Understanding Proposition 218" 12/96
- Exhibit 15 League of California Cities: "Living with Proposition 218 (11/20/96)
- Exhibit 16 Intentionally omitted
- Exhibit 17 Various articles obtained from the website:  
[www.caltax.org/comment/218com](http://www.caltax.org/comment/218com)

### MEMORANDUM OF POINTS AND AUTHORITIES

Pursuant to Evidence Code sections 450, 452 (c), 453 and 459 and Rule 8.252, California Rules of Court, appellant moves the Court to take judicial notice of the documents contained in Exhibits 1A through 15 (exhibit 4 omitted) to the motion.

The documents are portions of the legislative history of Proposition 218, the constitutional initiative enacted by the voters of the State of California on November 5, 1996, that are codified as article XIII D in the California Constitution.

The initiative was, and is, name the "Right to Vote on Taxes Act."

These documents were obtained from the Legislative Intent Service in Woodland California ("LIS") and submitted under the attached declaration of Maria A. Sanders, as true and correct copies of the originals.

Under Evidence Code section 459 appellate courts have the same right and power to take judicial notice as do the trial courts. "In an effort to discern legislative intent, an appellate court is entitled to take judicial notice of the various legislative materials, including committee reports, underlying the enactment of a statute." (*Hale v. Southern California IPA Medical Group, Inc.* (2001, Second District Division 3) 86 Cal.App.4th 919, 927)

Documents supplied by LIS have consistently been utilized by the Supreme Court and the Courts of Appeal, either when proffered by the litigants or on their own motion, and LIS has often been mentioned in appellate opinions as the source of the documents. (See, e.g., *People v. Sanchez* (2001) 24 Cal.4th 983, 992, fn.4; *People v. Brown* (1993) 6 Cal.4th 322, 334; and *People v. Connor* (2004, Sixth District) 115 Cal.App.4th 669, 681, fn.3)

The declaration of a Legislative Intent Service attorney to the effect that the copies provided are true and correct copies of the originals is sufficient to authenticate the materials. (*People v. Connor* (2004) 115 Cal.App.4th 669, 681; *Whaley v. Sony ComputerAmerica, Inc.* (2004) 121 Cal.App.4th 479, 487)

### **Courts Have Taken Judicial Notice of The Types of Documents In This Motion**

Courts have taken judicial notice of the same types of legislative documents listed in appellant's motion for judicial notice set forth as Exhibits 1 through 17, as follows:

**Exhibit 1:** In construing an initiative, courts may refer to "other indicia of the voters' intent, particularly the analyses and arguments contained in the official ballot pamphlet." (*People v. Canty* (2004) 32 Cal.4th 1266, 1281; *Silicon Valley Taxpayers Association v. Santa Clara Open Space Authority* (2008) 44 Cal.4th 431, 444-445)

**Exhibits 2-3:** Committee analyses. (*In re J. W.* (2002) 29 Cal.4th 200, 211-212; *El Dorado Palm Springs, Ltd. v. City of Palm Springs et al.* (2002) 96 Cal.App.4th 1155, 1170)

**Exhibits 4-7, 12a-12i, 17:** Commentary and explanation by scholars and knowledgeable persons. (*Summers v. Newman* (1999) 20 Cal.4th 1021, 1034; *Trafficschoolonline, Inc., v. Superior Court (Ohlrich)* (2001) 89 Cal.App.4th 222, 233-234.)

**Exhibit 13, 15:** Departmental analysis and analysis by those charged with enforcement. (*Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova* (2007) 40 Cal.4th 412, 454-455; *Smith v. Superior Court* (2006) 39 Cal.4th 77, 87)

**Exhibit 14:** Legislative Analyst's Office. (*Silicon Valley Taxpayers Association v. Santa Clara Open Space Authority* (2008) 44 Cal.4th 431, 444-445; *Pacific Lumber Co. v. State Water Resources Control Board* (2006) 37 Cal.4th 921, 939; *California Association of Psychology Providers v. Rank* (1990) 51 Cal.3rd 1, 17)

### **The Documents Are Relevant**

The types of legislative documents submitted herewith are routinely considered by the reviewing courts of this State when considering the background and purpose of specific bills, statutes and initiatives. In the case before the Court bench, this material

sheds considerable light on the interpretation of the interplay between article XIII D, section 4 and article XIII D, section 6. Particularly because the meaning of the final sentence of article XIII D, section 6(c), “An agency may adopt procedures similar to those in increases for assessments in the conduct of elections under this subdivision” provides the necessary fulcrum of the District’s argument, an examination of legislative history is pertinent to the Court’s review of the issues in this case.

Respondent District advocates that when the voters enacted Proposition 218, they intended to eliminate article II, section 7’s guarantee of the right to vote in secret in article XIII D, section 6(c) property owner elections.

Such construction is inconsistent with all the interpretations of the author’s and sources of the legislative history materials with respect to which appellant, Greene, requests this Court take judicial notice.

Such construction of Proposition 218 is inconsistent with the voters’ intent when they approved Proposition 218, the *Right to Vote on Taxes Act*.

“This *measure protects taxpayers by limiting the methods by which local governments exact revenue from taxpayers without their consent.*” (Ballet Pamp., Gen. Elec. (Nov. 5, 1996) text of Prop. 218, § 2, reprinted at Historical Notes, 2A West’s Ann. Const. (2005 supp.) foll. art. XIII C, p. 68.)

The concluding sections of Proposition 218 provide that it “*shall be liberally construed to effectuate its purposes of limiting local government revenue and enhancing taxpayer consent.*” (Prop. 218, § 5; reprinted at Historical Notes, 2A West’s Ann. Const. (2005 supp.) foll. art. XIII C, p. 68.)

Since courts must interpret a constitutional amendment to give effect to the intent of the voters adopting it (*In re Quinn* (1973) 35 Cal.App.3d 473, 483), legislative history is relevant here for that purpose.

In addition, because the District contends that Government Code sections 53753 (c) and (e)(4) controlled its election, and those statutory provisions assert that article XIII D, section 4 assessment majority protest procedures are not elections subject to article II, section 7 and the Elections Code, voter intent when enacting Proposition 218 is critical. It is critical because if the voters did not intend to eliminate secret voting in Proposition 218 elections, the District's interpretation would violate what the voters enacted.

Recently, this Court held:

“There is a clear limitation, however, upon the power of the Legislature to regulate the exercise of a constitutional right.” (*Hale v. Bohannon* (1952) 38 Cal.2d 458, 471, 241 P.2d 4.) “ ‘[A]ll such legislation must be subordinate to the constitutional provision, and in furtherance of its purpose, and must not in any particular attempt to narrow or embarrass it.’ ” (*Ibid.*) Thus, a local agency acting in a legislative capacity has no authority to exercise its discretion in a way that violates constitutional provisions or undermines their effect.

(*Silicon Valley Taxpayers Association v. Santa Clara Open Space Authority, supra.*) 44 Cal.4<sup>th</sup> at 448.)

Finally, the District contends that there is an ambiguity between the literal language of Article XIII D, sections 4 and 6, and Elections Code section 4000 (c)(9) on one hand and Government Code sections 53753 (c) and (e)(4) on the other.

“Ambiguity ‘means susceptible to more than one reasonable interpretation.’ [citation] ¶ . . . [T]he initial examination may lead to the conclusion that ‘the language employed is clear and intelligible and suggests but a single meaning. . . . ‘ [citations.] Because legislative intent prevails over the words actually used [citation.], however, where a party argues a latent ambiguity exists, a court may

not simply adopt a literal construction and end its inquiry. [citation.] ¶ A latent ambiguity exists when ‘some extrinsic evidence creates a necessity for interpretation or a choice among two or more possible meanings.’ [citation.] Such a necessity is present where a literal construction would frustrate rather than promote the purpose of the statute. [citations.] Another example of such a necessity is presented where a literal construction would produce absurd consequences. [citation.]“

(*Coburn v. Sievert* (2005) 133 Cal.App.4<sup>th</sup> 1483, 1495; Accord: *People v. Yartz* (2005) 37 Cal.4<sup>th</sup> 529, 537-538)

Appellant submits that to strip voters of the right to secretly vote when voting to approve a \$40 million fee that they are having to pay for 20 years as part of their real property taxes is an absurd result, particularly in the context of Proposition 218, The Right to Vote on Taxes Act.

### CONCLUSION

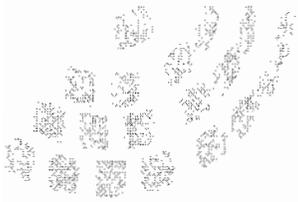
For all of the foregoing reasons, appellant respectfully moves that this Court take judicial notice of Exhibits herein, pursuant to Evidence Code sections 450, 452 (c), 453 and 459 and Rule 8.252, California Rules of Court.

Dated: October 9, 2009

HUB LAW OFFICES

By

Ford Greene  
Appellant In Pro Per



# LEGISLATIVE INTENT SERVICE, INC.

712 Main Street, Suite 200, Woodland, CA 95695  
(800) 666-1917 • Fax (530) 668-5866 • www.legintent.com

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## DECLARATION OF MARIA A. SANDERS

I, Maria A. Sanders, declare:

I am an attorney licensed to practice in California, State Bar No. 092900, and am employed by Legislative Intent Service, Inc., a company specializing in researching the history and intent of legislation.

Under my direction and the direction of other attorneys on staff, the research staff of Legislative Intent Service undertook to locate and obtain all documents relevant to the enactment of Proposition 218 of the November 5, 1996 General Election.

The following list identifies all documents obtained by the staff of Legislative Intent Service on Proposition 218 of the November 5, 1996 General Election. All listed documents have been forwarded with this Declaration except as otherwise noted in this Declaration. All documents gathered by Legislative Intent Service and all copies forwarded with this Declaration are true and correct copies of the originals located by Legislative Intent Service. In compiling this collection, the staff of Legislative Intent Service operated under directions to locate and obtain all available material on the proposition.

### **EXHIBIT A - PROPOSITION 218 OF THE NOVEMBER 5, 1996 GENERAL ELECTION:**

- x 1. Excerpt regarding Proposition 218 from the November 5, 1996 General Election California Ballot Pamphlet, prepared by Secretary of State;
- 2. Staff summary report of "November 1996 Ballot, Proposition 218: Right to vote on Taxes Act," prepared by the Senate Committees on Local Government and Revenue and Taxation, dated September 1996;
- 3. "Overview of Proposition 218, 'The Right to Vote on taxes Initiative,'" presented to the Senate Local Government Committee, dated September 24, 1996 and "Understanding Proposition 218," dated December, 1996.

4. "Proposition 218: Voter Approval for Local Government Taxes. Limitations on Fees, Assessments, and Charges. Vote: Yes 56.55 No 43.45" of the November 5, 1996 General Election;
5. Statements of Vote of Proposition 218, prepared by Secretary of State, November 5, 1996 General Election;
6. Two articles from Cal-Tax Digest published by the California Taxpayers' Association;
7. Articles from the League of Women Voters of California regarding Proposition 218 of 1996;
8. Articles from Los Angeles Times on Proposition 218 from July 1996 through November 1996;
9. Articles from the San Francisco Chronicle on Proposition 218 from September 1996 through November 1996;
10. Articles from the San Francisco Examiner regarding Proposition 218 from October 1996 through November 1996;
11. Articles from the Fresno Bee, the Business Press, and the City News Service on Proposition 218 from September 1996 through November 1996;
12. Articles from various organizations regarding Proposition 218 of 1996;
13. A Planner's Guide to Financing Public Improvements, by the Governor's Office of Planning and Research, dated June 1997;
14. "Understanding Proposition 218," prepared by Legislative Analyst, dated December 1996;
15. A Handbook for City Officials entitled "Living With Proposition 218," prepared by League of California Cities, dated November 20, 1996;
16. Preliminary excerpt of the Ballot Measure Committee Campaign Disclosure Statements;
17. Various articles obtained from the website: [www.caltax.org/comment/218com](http://www.caltax.org/comment/218com).

**EXHIBIT B – BACKGROUND LEGISLATIVE MATERIALS:**

1. All versions of Assembly Constitutional Amendment No. 13 (Johnson-1995);
2. Procedural history of Assembly Constitutional Amendment No. 13 from the 1995-96 Assembly Final History;
3. Three analyses of Assembly Constitutional Amendment No. 13 prepared for the Assembly Committee on Revenue and Taxation;

4. Analysis of Assembly Constitutional Amendment No. 13 prepared for the Assembly Committee on Local Government;
  5. Excerpt regarding Assembly Constitutional Amendment No. 13 from the 1995 Digest of Significant Legislation, prepared by the Office of Senate Floor Analyses, October 1995;
  6. All versions of Senate Constitutional Amendment No. 13 (Hurt-1995);
  7. Procedural History of Senate Constitutional Amendment No. 13 from the 1995-96 Senate Final History;
  8. Analysis of Senate Constitutional Amendment No. 13 prepared by the Senate Local Government;
  9. Excerpt regarding Senate Constitutional Amendment No. 13 from the 1995 Digest of Significant Legislation, prepared by the Office of Senate Floor Analyses, October 1995;
- x Exhibits preceded by an "x" are excerpted. The original exhibit is lengthy and may not contain any further discussion relevant to your concern. The entire exhibit, or further portions of it, will be made available on your request.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 8<sup>th</sup> day of October, 2009 at Woodland, California.

  
MARIA A. SANDERS

**PROOF OF SERVICE**

I am employed in the County of Marin, State of California. I am over the age of eighteen years and am ~~not~~<sup>FG</sup> a party to the above entitled action. My business address is 711 Sir Francis Drake Boulevard, San Anselmo, California. I served the following documents:

**APPELLANT'S REQUEST FOR JUDICIAL NOTICE**

on the following person(s) on the date set forth below, by personal delivery at the indicated addresses at my direction:

Sheila Lichtblau, Esq.  
COUNTY COUNSEL  
3501 Civic Center Drive  
Room 303  
San Rafael, CA 94903

Thomas M. McNerney  
OGLETREE, DEAKINS, NASH,  
SMOAK & STEWART  
Steuart Tower, Suite 1300  
San Francisco, California 94105

Michael G. Colantuono  
COLANTUONO & LEVIN  
300 South Grand Avenue  
Los Angeles, California 90071

- (By Mail) I caused such envelope with postage thereon fully prepaid to be placed in the United States Mail at San Anselmo, California.
- (Personal Service) I caused such envelope to be delivered by hand to the person of the addressee.
- (State) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.
- (Federal) I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

DATED: Friday, October 09, 2009

  
\_\_\_\_\_  
Ford Greene

## APPELLANT'S REQUEST FOR JUDICIAL NOTICE

### INDEX OF EXHIBITS

#### Volume 1

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EXHIBIT 1

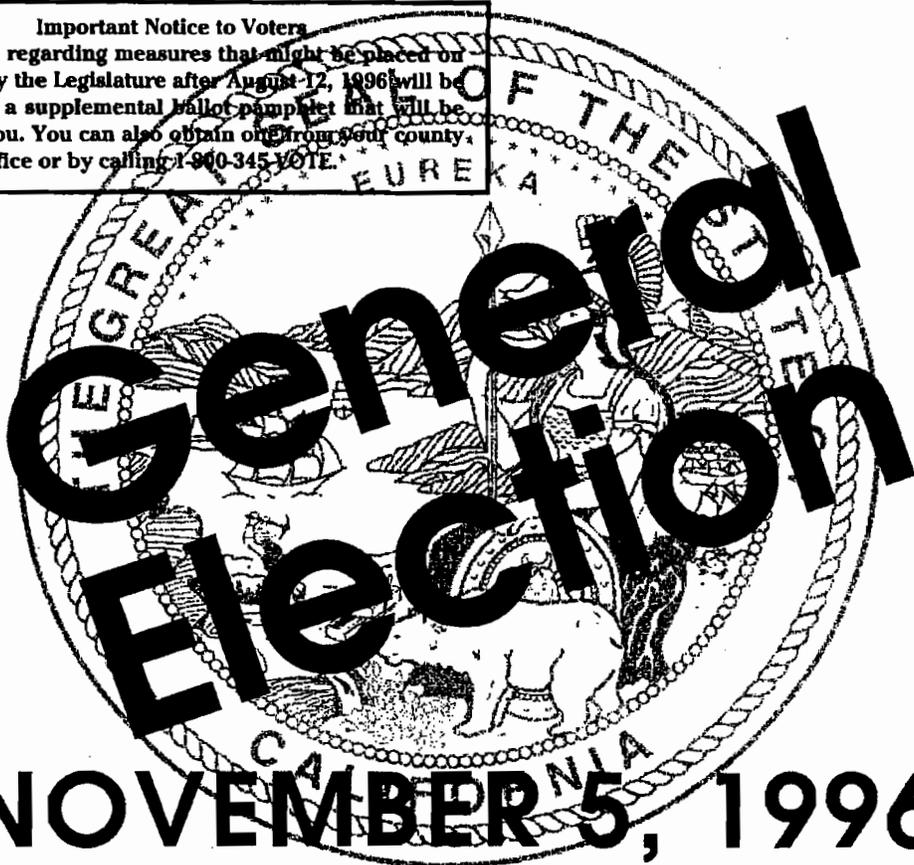
# California

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## BALLOT PAMPHLET

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**Important Notice to Voters**  
Information regarding measures that might be placed on the ballot by the Legislature after August 12, 1996 will be included in a supplemental ballot pamphlet that will be mailed to you. You can also obtain one from your county elections office or by calling 1-900-345-VOTE.



# NOVEMBER 5, 1996

### CERTIFICATE OF CORRECTNESS

I, Bill Jones, Secretary of State of the State of California, do hereby certify that the measures included herein will be submitted to the electors of the State of California at the GENERAL ELECTION to be held throughout the State on November 5, 1996, and that this pamphlet has been correctly prepared in accordance with law.



Witness my hand and the Great Seal of the State in Sacramento, California, this 12th day of August, 1996.

BILL JONES  
Secretary of State





## Secretary of State

Dear Voter:

On November 5, 1996, you will have an opportunity to have your voice heard when you go to the polls on election day. Not only will you have a say on who becomes the next U.S. President but you can also help determine the fate of issues that will help shape the future of our state, from water to healthcare to campaign reform to minimum wage, the decisions are in your hands. Consequently, you can understand the significance of the upcoming election—one in which every eligible voter must participate!

To help you prepare for the election, this ballot pamphlet contains comprehensive summaries, legislative analyses and arguments on 15 ballot propositions that will appear on the November ballot. We urge you to please take the time to read each measure carefully *before* going to the polls. And on November 5, 1996, you will be prepared to cast your ballot with confidence!

To help increase voter registration and participation in the November 5, 1996, election, the Secretary of State's office has launched a full-fledged voter outreach campaign designed to reach *every* voting-age citizen in California. With a goal of 100 percent voter registration and participation with absolutely zero percent tolerance for fraud, the outreach campaign includes: statewide radio and television public service announcements; voter registration displays in McDonald's restaurants; "You've Got the Power" and "Mock Elections" school-based programs; drive-up voter registration campaigns in northern and southern California; and register-to-vote messages on paycheck stubs, ATM receipts, buses, billboards, etc.—just to name a few.

The Secretary of State's office is committed to raising the level of voter participation in California. If you know anyone who is not registered to vote and would like to do so, please have them call the Secretary of State's 24-hour Voter Registration and Election Fraud Hot-Line at 1-800-345-VOTE to receive a voter registration form.

**The 1-800-345-VOTE hot-line can also be used to report any incidents of election fraud, tampering or other election-oriented irregularities. You may also contact your county registrar of voters or district attorney to report any instances of election-related misconduct. The complete elimination of fraud and the potential for it is one of the Secretary of State's top priorities. Anyone found in violation of the elections laws will be prosecuted to the fullest extent.**

Let's work together to make this election the most fair, honest and participatory election ever! The future of California depends on it.

Please note that Proposition 204 is the first proposition for this election. To avoid confusion with past measures, the Legislature passed a law which requires propositions to be numbered consecutively starting with the next number after those used in the November 1982 General Election. Commencing with the November 1998 General Election, the numbering will begin again with the number "1." This numbering scheme will run in ten-year cycles.



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## November 5, 1996, Ballot Measures

	SUMMARY	WHAT YOUR VOTE MEANS	
		YES	NO
<p style="text-align: center;"><b>204</b></p> <p style="text-align: center;"><b>SAFE, CLEAN, RELIABLE WATER SUPPLY ACT.</b></p> <p style="text-align: center;">Bond Act</p> <p style="text-align: center;">Put on the Ballot by the Legislature</p>	<p>This act provides for a bond issue of nine hundred ninety-five million dollars (\$995,000,000) to provide funds to ensure safe drinking water, increase water supplies, clean up pollution in rivers, streams, lakes, bays, and coastal areas, protect life and property from flooding, and protect fish and wildlife and makes changes in the Water Conservation and Water Quality Bond Law of 1986 and the Clean Water and Water Reclamation Bond Law of 1988 to further these goals. Fiscal Impact: General Fund cost of up to \$1.8 billion to pay off both the principal (\$995 million) and interest (\$776 million). The average payment for principal and interest over 25 years would be up to \$71 million per year.</p>	<p>A YES vote on this measure means: The state would be able to issue \$995 million in general obligation bonds for restoration and improvement of the San Francisco Bay/Sacramento-San Joaquin Delta Estuary; wastewater treatment and water supply and conservation; and local flood control and prevention.</p>	<p>A NO vote on this measure means: The state would not be able to issue bonds for these purposes.</p>
<p style="text-align: center;"><b>205</b></p> <p style="text-align: center;"><b>YOUTHFUL AND ADULT OFFENDER LOCAL FACILITIES BOND ACT OF 1996.</b></p> <p style="text-align: center;">Bond Act</p> <p style="text-align: center;">Put on the Ballot by the Legislature</p>	<p>This act provides for a bond issue of seven hundred million dollars (\$700,000,000) to provide funds for the construction, renovation, remodeling, and replacement of local juvenile and adult correctional facilities. Fiscal Impact: General Fund costs of \$1.25 billion to repay principal and interest, with annual payments averaging \$50 million for 25 years. Unknown costs, potentially millions of dollars annually, to counties to operate new facilities.</p>	<p>A YES vote on this measure means: The state would be able to issue \$700 million in general obligation bonds to finance local facilities for juvenile and adult offenders.</p>	<p>A NO vote on this measure means: The state would not be able to issue bonds for that purpose.</p>
<p style="text-align: center;"><b>206</b></p> <p style="text-align: center;"><b>VETERANS' BOND ACT OF 1996.</b></p> <p style="text-align: center;">Bond Act</p> <p style="text-align: center;">Put on the Ballot by the Legislature</p>	<p>This act provides for a bond issue of four hundred million dollars (\$400,000,000) to provide farm and home aid for California veterans. Fiscal Impact: General Fund cost of about \$700 million to pay off both the principal (\$400 million) and interest (about \$300 million) on the bonds, with an average annual payment for 25 years of about \$28 million to retire this debt; costs offset by payments from participating veterans.</p>	<p>A YES vote on this measure means: The state would be able to issue \$400 million in general obligation bonds to provide loans for the veterans' farm and home purchase (Cal-Vet) program.</p>	<p>A NO vote on this measure means: The state would not be able to issue bonds for this purpose.</p>
<p style="text-align: center;"><b>207</b></p> <p style="text-align: center;"><b>ATTORNEYS, FEES, RIGHT TO NEGOTIATE, FRIVOLOUS LAWSUITS.</b></p> <p style="text-align: center;">Initiative Statute</p> <p style="text-align: center;">Put on the Ballot by Petition Signatures</p>	<p>Except as allowed by laws in effect on January 1, 1995, prohibits restrictions on the right to negotiate amount of attorneys' fees. Prohibits attorneys from charging excessive fees. Authorizes court to impose sanctions for filing frivolous lawsuit or pleading. Fiscal Impact: Unknown, but probably not significant, net fiscal impact on state and local governments.</p>	<p>A YES vote on this measure means: It would be more difficult for the Legislature to change laws concerning attorney-client fee agreements. Courts and the State Bar would be required to sanction or recommend disciplinary measures against attorneys who file frivolous legal actions. Attorneys would not receive fees for cases in which they were sanctioned by the court for a frivolous legal action.</p>	<p>A NO vote on this measure means: There would be no change in the Legislature's ability to change laws concerning attorney-client fee agreements. Courts and the State Bar would retain discretion on when to sanction or recommend disciplinary measures against attorneys who file frivolous legal actions. An attorney may receive legal fees in cases where he or she has been sanctioned for a frivolous legal action.</p>
<p style="text-align: center;"><b>208</b></p> <p style="text-align: center;"><b>CAMPAIGN CONTRIBUTIONS AND SPENDING LIMITS. RESTRICTS LOBBYISTS.</b></p> <p style="text-align: center;">Initiative Statute</p> <p style="text-align: center;">Put on the Ballot by Petition Signatures</p>	<p>Limits campaign contributions to \$500 statewide elections, \$250 large districts, \$100 smaller districts. Incentives for voluntary spending limits. Prohibits lobbyist contributions. Fiscal Impact: Costs of up to \$4 million annually to state and local governments for implementation and enforcement; unknown, but probably not significant, state and local election costs.</p>	<p>A YES vote on this measure means: Campaign contributions by an individual would be limited to \$250 for legislative and local offices and \$500 for statewide offices. These limits approximately double for candidates who accept voluntary campaign spending limits. The voluntary spending limits for general elections would be \$200,000 for state Assembly, \$400,000 for state Senate, \$2 million for statewide office (other than Governor), and \$8 million for Governor. The measure establishes voluntary spending limits for local elections.</p>	<p>A NO vote on this measure means: There would continue to be no limits on political campaign contributions to candidates for state office. There would be no limits on the amounts of money that candidates, their campaign committees, or other support groups can spend in any state election. Local governments could establish their own campaign finance limits.</p>



## November 5, 1996, Ballot Measures—Continued

ARGUMENTS		WHOM TO CONTACT FOR MORE INFORMATION	
PRO	CON	FOR	AGAINST
Provides a balanced solution to California's water supply needs that enhances our economy while protecting the environment. According to State Treasurer Matt Fong, "Proposition 204's \$995 million investment in the state's water supply and delivery system is a very prudent investment to sustain and expand California's \$750 billion economy."	What "water crisis"? State government has a record of damaging the environment rather than protecting it. We don't know if these projects are worthwhile. They should be voted on and funded at the local level. Prop. 204 will cost \$1.7 billion in principal and interest over 25 years.	Californians for Safe, Clean, Reliable Water 10866 Wilshire Boulevard, Suite 550 Los Angeles, CA 90024-4303 (310) 441-9380	Libertarian Party of California 1800 Market Street, Suite 16 San Francisco, CA 94102 1-800-637-1776
California Sheriffs, Police Chiefs, District Attorneys and Crime Victims United agree—we need Proposition 205 to build and improve local jails and juvenile halls. Your yes vote on Prop. 205 will keep violent criminals off our streets and behind bars where they belong.	Prop. 205 will cost \$1.2 billion in principal and interest. We don't need more jails; change law enforcement priorities instead. "3 Strikes" should be three violent felonies. The current method clogs jails. 50% of crimes are drug-related. The "war on drugs" has failed. Legalize drugs to cut crime.	Jim Brulte, Assemblyman State Capitol Sacramento, CA 95814 (916) 445-8490	Libertarian Party of California 1800 Market Street, Suite 16 San Francisco, CA 94102 1-800-637-1776
This act provides for a general obligation bond issue of four hundred million dollars (\$400,000,000) to provide funding for the purchase by wartime veterans of farms and homes under the Cal-Vet program. The Cal-Vet program is entirely self-supporting and costs the taxpayer nothing.	The federal government provides extensive veterans' benefits, including VA home loans. The state doesn't need to duplicate this. Foreclosures are at an all-time high. If veterans don't pay these loans, taxpayers would have to pay. Banks offer low-down home loans. Veterans can apply if they have good credit.	Senator Don Rogers State Capitol Sacramento, CA 95814 (916) 445-5798 Attention: David Graffit	Libertarian Party of California 1800 Market Street, Suite 16 San Francisco, CA 94102 1-800-637-1776
Frivolous lawsuits can be stopped. Proposition 207 takes away <i>all</i> the fees from lawyers when a judge rules their lawsuit is frivolous. After three frivolous lawsuits—they can lose their license. Proposition 207 was written by responsible consumer attorneys. It punishes bad lawyers without taking away consumers' contingency fee protections.	Vote <i>no</i> on 207: A smokescreen by ambulance-chasing lawyers that guarantees their ability to take outrageous fees. Propositions 207 and 211 contain "hidden" language to protect excessive fees. We'll pay for their greed in higher insurance and health care costs. 207 and 211 damage consumers and seniors. Vote <i>no</i> .	Hilary McLean Consumer Attorneys of California (916) 442-6902	Association for California Tort Reform (916) 443-4900 Fax: (916) 443-4306 Website: <a href="http://www.actr.com/actr/">http://www.actr.com/actr/</a>
<i>Yes</i> on Prop. 208: <i>genuine campaign reform</i> . Prop. 208 will <i>get big money out of politics</i> , making politicians accountable to the voters, not big campaign contributors. This practical solution to special-interest influence, sponsored by League of Women Voters and AARP, will be the nation's toughest campaign reform law.	208 doesn't limit out-of-district campaign contributions to politicians. It sets contribution limits too high for ordinary Californians. 208 gives favored treatment to candidates with wealthy special interest backers. 208's "spending limits" are only voluntary. It costs taxpayers millions. 208 is too little, too late. <i>Yes</i> on 212 instead.	Californians for Political Reform, A Committee Sponsored by League of Women Voters of California, American Association of Retired Persons-California (AARP), Common Cause and United We Stand America 926 J Street, Suite 910 Sacramento, CA 95814 (916) 444-0834 <a href="http://www.vida.com/cfr">www.vida.com/cfr</a>	Californians Against Political Corruption 11965 Venice Blvd., Suite 408 Los Angeles, CA 90066 (310) 397-3404 <a href="http://www.best.com/~myk/fedup/">http://www.best.com/~myk/fedup/</a>



## November 5, 1996, Ballot Measures—Continued

	SUMMARY	WHAT YOUR VOTE MEANS	
		YES	NO
<p style="text-align: center;"><b>209</b></p> <p style="text-align: center;"><b>PROHIBITION AGAINST DISCRIMINATION OR PREFERENTIAL TREATMENT BY STATE AND OTHER OTHER PUBLIC ENTITIES.</b></p> <p style="text-align: center;">Initiative Constitutional Amendment</p> <p style="text-align: center;">Put on the Ballot by Petition Signatures</p>	<p>Generally prohibits discrimination or preferential treatment based on race, sex, color, ethnicity, or national origin in public employment, education, and contracting. Fiscal Impact: Could affect state and local programs that currently cost well in excess of \$125 million annually. Actual savings would depend on various factors (such as future court decisions and implementation actions by government entities).</p>	<p>A YES vote on this measure means: The elimination of those affirmative action programs for women and minorities run by the state or local governments in the areas of public employment, contracting, and education that give "preferential treatment" on the basis of sex, race, color, ethnicity, or national origin.</p>	<p>A NO vote on this measure means: State and local government affirmative action programs would remain in effect to the extent they are permitted under the United States Constitution.</p>
<p style="text-align: center;"><b>210</b></p> <p style="text-align: center;"><b>MINIMUM WAGE INCREASE.</b></p> <p style="text-align: center;">Initiative Statute</p> <p style="text-align: center;">Put on the Ballot by Petition Signatures</p>	<p>Increases the state minimum wage for all industries to \$5.00 per hour on March 1, 1997, and to \$5.75 per hour on March 1, 1998. Fiscal Impact: Unknown impact on government revenues. Annual wage-related costs to state and local governments of \$120 million to \$300 million (depending on federal action), partly offset by net savings, in the low tens of millions, in health and welfare programs.</p>	<p>A YES vote on this measure means: California's minimum wage will increase to \$5.00 per hour beginning March 1, 1997, and to \$5.75 per hour beginning March 1, 1998.</p>	<p>A NO vote on this measure means: California's minimum wage will not be raised beyond the level required by current law.</p>
<p style="text-align: center;"><b>211</b></p> <p style="text-align: center;"><b>ATTORNEY-CLIENT FEE ARRANGEMENTS. SECURITIES FRAUD. LAWSUITS.</b></p> <p style="text-align: center;">Initiative Statute</p> <p style="text-align: center;">Put on the Ballot by Petition Signatures</p>	<p>Prohibits restrictions on attorney-client fee arrangements, except as allowed by laws existing on January 1, 1995. Prohibits deceptive conduct by any person in securities transactions resulting in loss to retirement funds, savings. Imposes civil liability, punitive damages. Fiscal Impact: Probably minor net fiscal impact on state and local governments.</p>	<p>A YES vote on this measure means: The law will be broadened to make it easier for an individual to sue for securities fraud particularly in cases involving retirement investments. Also, the Legislature could no longer change the laws concerning any attorney-client fee agreements.</p>	<p>A NO vote on this measure means: Current law regarding securities fraud will remain unchanged. Also, the Legislature could still change the laws concerning any attorney-client fee agreements.</p>
<p style="text-align: center;"><b>212</b></p> <p style="text-align: center;"><b>CAMPAIGN CONTRIBUTIONS AND SPENDING LIMITS. REPEALS GIFT AND HONORARIA LIMITS. RESTRICTS LOBBYISTS.</b></p> <p style="text-align: center;">Initiative Statute</p> <p style="text-align: center;">Put on the Ballot by Petition Signatures</p>	<p>Repeals gift/honoraria limits. Limits contributions to \$200 in state and \$100 in other campaigns. Imposes spending limits. Prohibits lobbyist contributions. Fiscal Impact: Costs of up to \$4 million annually to state and local governments for implementation and enforcement; unknown, but probably not significant, state and local election costs. Increases state revenues about \$6 million by eliminating tax deduction for lobbying.</p>	<p>A YES vote on this measure means: Campaign contributions by an individual would be limited to \$100 for state legislative and local offices and \$200 for statewide offices. Mandatory campaign spending limits for state and local offices would be established; if the limits are invalidated by the courts, they would become voluntary. The spending limits for general elections would be \$150,000 for state Assembly, \$235,000 for state Senate, \$1.75 million for statewide offices (other than Governor), and \$5 million for Governor. Current restrictions on public officials receiving gifts and honoraria would be eliminated. Current tax deductions for lobbying expenses would be eliminated.</p>	<p>A NO vote on this measure means: There would continue to be no limits on political campaign contributions to candidates for state office. There would be no limits on the amounts of money that candidates, their campaign committees, or other support groups can spend in any state election. Local governments could establish their own campaign finance limits. Current restrictions on public officials receiving gifts and honoraria would be maintained. Lobbying expenses would remain tax deductible.</p>
<p style="text-align: center;"><b>213</b></p> <p style="text-align: center;"><b>LIMITATION ON RECOVERY TO FELONS, UNINSURED MOTORISTS, DRUNK DRIVERS.</b></p> <p style="text-align: center;">Initiative Statute</p> <p style="text-align: center;">Put on the Ballot by Petition Signatures</p>	<p>Denies recovery of all damages to convicted felons for crime-related injury. Denies recovery of noneconomic damages (e.g., pain, suffering) to drunk drivers, if convicted, and most uninsured motorists. Fiscal Impact: Probably minor net fiscal impact on state and local government.</p>	<p>A YES vote on this measure means: Uninsured drivers or drivers convicted of driving under the influence of alcohol or drugs at the time of an accident could no longer sue someone who was at fault for the accident for noneconomic losses (such as pain and suffering). Also, a person convicted of a felony could no longer sue for injuries suffered while committing the crime or fleeing from the crime scene if injuries were a result of negligence.</p>	<p>A NO vote on this measure means: Individuals could still sue for injuries that resulted from an accident that occurred while they were breaking certain laws.</p>



## November 5, 1996, Ballot Measures—Continued

ARGUMENTS		WHOM TO CONTACT FOR MORE INFORMATION	
PRO	CON	FOR	AGAINST
<p>Proposition 209, the California Civil Rights Initiative, is the right thing to do. It ends government-sponsored discrimination by rejecting quotas, preferences and set-asides. It saves tax dollars currently wasted on high-bid contracts. Proposition 209 increases California's commitment to fighting sex and race discrimination. Vote Yes.</p>	<p><i>Proposition 209 goes too far eliminating equal opportunity affirmative action programs for qualified women and minorities. It permits gender discrimination by state and local governments through a legal loophole. Politicians exploit 209 for their own political opportunism. General Colin Powell has spoken out against 209. Vote no on 209!!!</i></p>	<p>California Civil Rights Initiative Yes on 209 Box 67278 Los Angeles, CA 90067 (310) 286-2274 E-Mail: ccri@earthlink.net <a href="http://www.publicaffairsweb.com/ccri">http://www.publicaffairsweb.com/ccri</a> Ward Connerly, Chairman Glynn Custred and Tom Wood, co-authors</p>	<p>Chris Taylor 8170 Beverly Boulevard, Suite 205 Los Angeles, CA 90048 (213) 782-1144</p>
<p>Because of inflation, California's minimum wage buys less today than at any time in the past 40 years. Proposition 210 restores the purchasing power of the minimum wage, and makes work more rewarding than welfare. League of Women Voters, Congress of California Seniors, Consumer Federation of California support Proposition 210.</p>	<p>The likely federal minimum wage hike will hurt enough. Proposition 210 will make California's minimum wage higher than the federal level and any other state. This will mean <i>inflation, less jobs</i> for the young and unskilled, <i>more</i> people on government assistance, <i>higher</i> taxpayers' costs and <i>more</i> hardships for small businesses.</p>	<p>Liveable Wage Coalition 660 Sacramento Street, Suite 202 San Francisco, CA 94111 (415) 616-5150 E-Mail: LIVINGWAGE@AOL.com <a href="http://www.prop210.org">http://www.prop210.org</a></p>	<p>Alliance to Protect Small Businesses &amp; Jobs 268 Bush Street, #3431 San Francisco, CA 94104 Web site: <a href="http://www.prop210no.org">www.prop210no.org</a></p>
<p>Fraud must be punished. Prosecutors are swamped by fraud cases. Proposition 211 punishes white collar cheaters who "willfully, knowingly, or recklessly" defraud people out of their pension or retirement savings. Proposition 211 helps victims get their money back and holds corporate executives personally responsible for cheating senior citizens!</p>	<p>211 is a hoax. 211 prohibits limits on lawyer fees and encourages frivolous lawsuits that clog courts, damage business and stall medical research. 211 could cost 159,000 jobs and \$5.1 billion in higher taxes. 211 damages pensions, retirement and family savings. Seniors, Democrats, Republicans, families say <i>no</i> on 211.</p>	<p>Sean Crowley Citizens for Retirement Protection and Security (213) 617-7337</p>	<p>Taxpayers Against Frivolous Lawsuits 915 L Street, #C307 Sacramento, CA 95814 (916) 774-0637 1-800-966-1492 Fax: (916) 774-0429 Web Site: <a href="http://www.tafl.com">http://www.tafl.com</a></p>
<p>212 gets tough on special interests and self-interested politicians. 212 strictly limits out-of-district campaign contributions; bans corporate and union contributions; bans corporate tax deductions for lobbying; sets \$100 contribution limits; and sets low, mandatory campaign spending limits. All at no cost to taxpayers. Vote Yes on 212.</p>	<p><i>Warning: Prop. 212 is consumer fraud. It wipes out anti-corruption laws, legalizing unlimited personal cash payments and gifts to elected officials! It allows special interests to give one hundred times what you and I can give! A hundredfold advantage! Opposed by League of Women Voters &amp; AARP. Vote no.</i></p>	<p>Californians Against Political Corruption 11965 Venice Boulevard, Suite 408 Los Angeles, CA 90066 (310) 397-3404 <a href="http://www.best.com/~myk/fedup/">http://www.best.com/~myk/fedup/</a></p>	<p>Californians for Political Reform, A Committee Sponsored by League of Women Voters of California, American Association of Retired Persons-California (AARP), Common Cause and United We Stand America 926 J Street, Suite 910 Sacramento, CA 95814 (916) 444-0834 <a href="http://www.vida.com/cfr">www.vida.com/cfr</a></p>
<p>A <i>yes</i> vote on this measure means: A convicted felon would be prohibited from recovering monetary damages for an accidental injury sustained while fleeing from his or her crime. Drunk drivers and uninsured motorists involved in collisions could recover only medical and out-of-pocket expenses but would be prohibited from recovering "pain and suffering" awards from insured drivers.</p>	<p>No-Fault Auto Insurance has failed twice in California. Now, the Insurance Lobby's newest No-Fault scheme rewards reckless drivers who hit innocent poor people. Proposition 213 lets reckless drivers avoid responsibility. No-Fault for reckless drivers. The No-Faulters say we save millions. But nothing in Proposition 213 No-Fault lowers our insurance rates.</p>	<p>Rex Frazier 915 L Street, Suite 1050 Sacramento, CA 95814 (916) 449-2956 Fax: (916) 449-2959</p>	<p>Consumers Against No Fault for Reckless Drivers 2110 K Street, #19B Sacramento, CA 95816 (916) 444-0748</p>



**November 5, 1996, Ballot Measures—Continued**

	SUMMARY	WHAT YOUR VOTE MEANS	
		YES	NO
<p align="center"><b>214</b></p> <p align="center"><b>HEALTH CARE. CONSUMER PROTECTION.</b></p> <p align="center">Initiative Statute</p> <p align="center">Put on the Ballot by Petition Signatures</p>	<p>Regulates health care businesses. Prohibits discouraging health care professionals from informing patients or advocating treatment. Requires health care businesses to establish criteria for payment and facility staffing. Fiscal Impact: Increased state and local government costs for existing health programs and benefits, probably in the tens to hundreds of millions of dollars annually.</p>	<p>A YES vote on this measure means: Physical examinations would be required before health plans or insurers could deny recommended care. State staffing standards would be expanded to more types of health facilities, taking the needs of individual patients into account. Health care businesses could not offer financial incentives to doctors and others to reduce care. Certain health care employees and contractors would have additional protections.</p>	<p>A NO vote on this measure means: There would be no requirements regarding physical examinations prior to denial of recommended care. There would not be any change to current state and federal laws regarding health facility staffing, health care employee and contractor protections, and restrictions on financial incentives to reduce care.</p>
<p align="center"><b>215</b></p> <p align="center"><b>MEDICAL USE OF MARIJUANA.</b></p> <p align="center">Initiative Statute</p> <p align="center">Put on the Ballot by Petition Signatures</p>	<p>Exempts from criminal laws patients and defined caregivers who possess or cultivate marijuana for medical treatment recommended by a physician. Provides physicians who recommend use shall not be punished. Fiscal Impact: Probably no significant fiscal impact on state and local governments.</p>	<p>A YES vote on this measure means: Persons with certain illnesses (and their caregivers) could grow or possess marijuana for medical use when recommended by a physician. Laws prohibiting the nonmedical use of marijuana are not changed.</p>	<p>A NO vote on this measure means: Growing or possessing marijuana for any purpose (including medical purposes) would remain illegal.</p>
<p align="center"><b>216</b></p> <p align="center"><b>HEALTH CARE. CONSUMER PROTECTION. TAXES ON CORPORATE RESTRUCTURING.</b></p> <p align="center">Initiative Statute</p> <p align="center">Put on the Ballot by Petition Signatures</p>	<p>Regulates health care businesses. Prohibits discouraging health care professionals from informing patients. Prohibits conditioning coverage on arbitration agreement. Establishes nonprofit consumer advocate. Imposes taxes on corporate restructuring. Fiscal Impact: New tax revenues, potentially hundreds of millions of dollars annually, to fund specified health care. Additional state and local government costs for existing health programs and benefits, probably tens to hundreds of millions of dollars annually.</p>	<p>A YES vote on this measure means: New taxes would be imposed on health care businesses to fund specified health care services. Physical examinations would be required before health plans or insurers could deny recommended care. State staffing standards would be set for all health facilities, taking the needs of individual patients into account. Health care businesses could not offer financial incentives to doctors and others to reduce care. Certain health care employees and contractors would have additional protections.</p>	<p>A NO vote on this measure means: New taxes would not be imposed on health care businesses to finance health care services. There would be no requirement regarding physical examinations prior to denial of recommended care. There would not be any change to current state and federal laws regarding health facility staffing, health care employee and contractor protections, and restrictions on financial incentives to reduce care.</p>
<p align="center"><b>217</b></p> <p align="center"><b>TOP INCOME TAX BRACKETS. REINSTATEMENT. REVENUES TO LOCAL AGENCIES.</b></p> <p align="center">Initiative Statute</p> <p align="center">Put on the Ballot by Petition Signatures</p>	<p>Retroactively reinstates highest tax rates on taxpayers with taxable income over \$115,000 and \$230,000 (current estimates) and joint taxpayers with taxable incomes over \$230,000 and \$460,000 (current estimates). Allocates revenue from those rates to local agencies. Fiscal Impact: Annual increase in state personal income tax revenues of about \$700 million, with about half the revenues allocated to schools and half to other local governments.</p>	<p>A YES vote on this measure means: Income taxes will be raised on the highest income taxpayers in the state, with the increased revenues going to schools and other local governments.</p>	<p>A NO vote on this measure means: Income taxes on the highest-income taxpayers in the state will not be raised.</p>
<p align="center"><b>218</b></p> <p align="center"><b>VOTER APPROVAL FOR LOCAL GOVERNMENT TAXES. LIMITATIONS ON FEES, ASSESSMENTS, AND CHARGES.</b></p> <p align="center">Initiative Constitutional Amendment</p> <p align="center">Put on the Ballot by Petition Signatures</p>	<p>Requires a majority of voters to approve increases in general taxes. Requires property-related assessments, fees, charges be submitted to property owners for approval. Fiscal Impact: Short-term local government revenue losses of more than \$100 million annually. Long-term local government revenue losses of potentially hundreds of millions of dollars annually. Comparable reductions in spending for local public services.</p>	<p>A YES vote on this measure means: Local governments' ability to charge assessments and certain property-related fees would be significantly restricted. Spending for local public services would be reduced accordingly. Many existing and future local government fees, assessments, and taxes would be subject to voter-approval.</p>	<p>A NO vote on this measure means: Local governments could continue to collect existing property-related fees, assessments, and taxes to pay for local public services. Local governments would have no new voter-approval requirements for revenue increases.</p>



## November 5, 1996, Ballot Measures—Continued

ARGUMENTS		WHOM TO CONTACT FOR MORE INFORMATION	
PRO	CON	FOR	AGAINST
<p>Proposition 214 protects freedom of speech between patients and doctors, and patients' right to the care that their health insurance has already paid for. It prevents HMOs and insurers from using gag rules, intimidation, or financial incentives to discourage doctors from providing needed care. Please, vote yes on Proposition 214.</p>	<p>Proposition 214, like 216, is bogus health care reform. It increases health insurance by up to 15% (costing <i>billions</i>), costs taxpayers hundreds of millions, and helps trial lawyers file more frivolous lawsuits. 214 and 216 could cost 60,000 workers their jobs but don't provide health coverage to anyone. <i>Vote no.</i></p>	<p>Californians for Patient Rights 560 Twentieth Street Oakland, CA 94612 (510) 433-9360 Internet Address: <a href="http://www.yes-prop214.org">http://www.yes-prop214.org</a></p>	<p>Taxpayers Against Higher Health Costs Stop the Hidden Health Care Tax 915 L Street, Suite C240 Sacramento, CA 95814 (916) 552-7526 (800) 996-6287 Fax: (916) 552-7523 Web Site: <a href="http://www.noprop214.org">http://www.noprop214.org</a></p>
<p>Marijuana can relieve pain and suffering in serious illnesses like cancer, glaucoma and AIDS. Proposition 215 permits patients to use marijuana, <i>but only if they have the approval of a licensed physician.</i> Tight controls limiting marijuana to patients only will remain in place. Cancer doctors and nurses groups support 215.</p>	<p><i>Proposition 215 legalizes marijuana. Vote no.</i> It allows people to grow and smoke marijuana for stress or "any other illness." No written prescription or examination is required, even children can smoke pot legally. The American Cancer Society rejects smoking marijuana for medical purposes and no major doctor's organization supports 215.</p>	<p>Californians for Medical Rights 1250 Sixth Street, #202 Santa Monica, CA 90401 (310) 394-2952 Fax: (310) 451-7494 Internet home page: <a href="http://www.prop215.org">http://www.prop215.org</a></p>	<p>Citizens for a Drug-Free California Sheriff Brad Gates, Chairman 4901 Birch Street Newport Beach, CA 92660 (714) 476-3017</p>
<p>Protects consumers against unsafe care by insurance companies and HMOs. Outlaws bonuses to doctors for denying treatment. Restores control of patient care to doctors and nurses. Saves lives. Reduces costs to taxpayers, businesses. Bans unjustified premium increases. Creates independent watchdog. Backed by California Nurses Association, Harvey Rosenfield and Ralph Nader.</p>	<p>Propositions 216 and 214 are near twins—phony health care reform that costs taxpayers and consumers billions without providing coverage to the uninsured. 216 means: four new taxes; dramatically higher health insurance costs; more government bureaucrats; more frivolous lawsuits for trial lawyers; and up to 60,000 lost jobs. <i>Vote no.</i></p>	<p>Harvey Rosenfield Consumers and Nurses for Patient Protection 1750 Ocean Park #200 Santa Monica, CA 90405 (310) 392-0522 E-Mail: <a href="mailto:network@primenet.com">network@primenet.com</a></p>	<p>Taxpayers Against Higher Health Costs Stop the Hidden Health Care Tax 915 L Street, Suite C240 Sacramento, CA 95814 (916) 552-7526 (800) 996-6287 Fax: (916) 552-7523 Web Site: <a href="http://www.noprop216.org">http://www.noprop216.org</a></p>
<p>Proposition 217 restores a little fiscal sanity to California. It cancels a tax cut for the wealthiest 1.2%—a cut the rest of us won't get—to protect schools and restore local funding the state took away. Support your local schools, law enforcement, libraries, parks, and child protection. <i>Vote yes.</i></p>	<p><i>Taxes already are too high!</i> Retroactive tax increase effectively gives California highest personal income tax rate nationwide. Small businesses would be hurt. <i>Absolutely no guarantees or accountability how the new tax money would be spent.</i> Contains too many provisions with uncertain and even potentially dangerous economic consequences. <i>No on 217!</i></p>	<p>Yes on Proposition 217 2500 Wilshire Blvd., Suite 508 Los Angeles, CA 90057 213-386-4036 Web site address: <a href="http://www.prop217.org">http://www.prop217.org</a></p>	<p>Californians for Jobs, Not More Taxes/No on 217 111 Anza Boulevard, Suite 406 Burlingame, CA 94010 (415) 340-0470</p>
<p>Proposition 218 simply gives taxpayers the right to vote on taxes. Proposition 218 provides only registered Californians vote on taxes. Nonresidents, foreigners, corporations get no new rights. Proposition 218 doesn't cut traditional "lifeline" services; allows taxes for police, fire, education. <i>Your right to vote on taxes: Yes on Proposition 218.</i></p>	<p>Gives large landowners—including noncitizens—more voting power than average homeowners. Denies assessment voting rights for renters. Cuts <i>existing</i> funding for local police, fire, library services. Adds <i>new taxes</i> on public property like neighborhood schools, cutting funds available for teaching and classroom supplies and computers; increases <i>school crowding.</i></p>	<p>The Howard Jarvis Taxpayers Association The Right to Vote on Taxes Act, Yes on Prop. 218 621 S. Westmoreland Avenue, Suite 202 Los Angeles, CA 90005 (213) 384-9656</p>	<p>Citizens for Voters' Rights 2646 Dupont Dr., Suite 20-412 Irvine, CA 92612 (714) 222-5438 <a href="http://www.prop218no.org">http://www.prop218no.org</a></p>





**Voter Approval for Local Government Taxes.  
Limitations on Fees, Assessments, and Charges.  
Initiative Constitutional Amendment.**

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**Official Title and Summary Prepared by the Attorney General**

**VOTER APPROVAL FOR LOCAL GOVERNMENT TAXES.  
LIMITATIONS ON FEES, ASSESSMENTS, AND CHARGES.  
INITIATIVE CONSTITUTIONAL AMENDMENT.**

- Limits authority of local governments to impose taxes and property-related assessments, fees, and charges. Requires majority of voters approve increases in general taxes and reiterates that two-thirds must approve special tax.
- Assessments, fees, and charges must be submitted to property owners for approval or rejection, after notice and public hearing.
- Assessments are limited to the special benefit conferred.
- Fees and charges are limited to the cost of providing the service and may not be imposed for general governmental services available to the public.

**Summary of Legislative Analyst's  
Estimate of Net State and Local Government Fiscal Impact:**

- Short-term local government revenue losses of more than \$100 million annually.
  - Long-term local government revenue losses of potentially hundreds of millions of dollars annually.
  - Local government revenue losses generally would result in comparable reductions in spending for local public services.
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## Analysis by the Legislative Analyst

### OVERVIEW

Local governments provide many services to people and businesses in their communities. To pay for these services, local governments raise revenues by imposing fees, assessments, and taxes. This constitutional measure would make it more difficult for local governments to raise these revenues. As a result, this measure would:

- Reduce the amount of fees, assessments, and taxes that individuals and businesses pay.
- Decrease spending for local public services.

### PROPOSAL

This measure would constrain local governments' ability to impose fees, assessments, and taxes. The measure would apply to all cities, counties, special districts, redevelopment agencies, and school districts in California.

#### Fees

**Current Practice.** Local governments charge fees to pay for many services to their residents. Some of these fees pay for services to property, such as garbage collection and sewer service. Fees are also called "charges."

Local governments often establish several fee amounts for a service, each based on the approximate cost of providing the service to different types of properties (such as commercial, industrial, or residential property). Local governments usually send monthly bills to property owners to collect these fees, although some fees are placed on the property tax bill. Local governments generally hold public hearings before creating or increasing such a fee, but do not hold elections on fees.

**Proposed Requirements for Property-Related Fees.** This measure would restrict local governments' ability to charge "property-related" fees. (Fees for water, sewer, and refuse collection service probably meet the measure's definition of a property-related fee. Gas and electric fees and fees charged to land developers are specifically exempted.)

Specifically, the measure states that *all* local property-related fees must comply by July 1, 1997, with the following restrictions:

- No property owner's fee may be more than the cost to provide service to that property owner's land.
- No fee may be charged for fire, police, ambulance, library service, or any other service widely available to the public.
- No fee revenue may be used for any purpose other than providing the property-related service.
- Fees may only be charged for services immediately available to property owners.

In addition, the measure specifies that before adopting a *new* property-related fee (or increasing an *existing* one), local governments must: mail information about the fee to every property owner, reject the fee if a majority of the property owners protest in writing, and hold an election on the fee (unless it is for water, sewer, or refuse collection service).

Taken together, these fee restrictions would require local governments to reduce or eliminate some existing fees. Unless local governments increased taxes to replace these lost fee revenues, spending for local public services likely would be decreased. The measure's requirements would also expand local governments' administrative workload. For example, local governments would have to adjust many property-related fees, potentially (1) setting them on a block-by-block or parcel-by-parcel basis and (2) ending programs that allow low-income people to pay reduced property-related fees. Local governments would also have to mail information to every property owner and hold elections.

#### Assessments

**Current Practice.** Local governments charge assessments to pay for projects and services that benefit specific properties. For example, home owners may pay assessments for sidewalks, streets, lighting, or recreation programs in their neighborhood. Assessments are also called "benefit assessments," "special assessments," "maintenance assessments," and similar terms. Local governments typically place assessment charges on the property tax bill.

To create an assessment, state laws require local governments to determine which properties would benefit from a project or service, notify the owners, and set assessment amounts based on the approximate benefit property owners would receive. Often, the rest of the community or region also receives some general benefit from the project or service, but does not pay a share of cost. Typical assessments that provide general benefits include fire, park, ambulance, and mosquito control assessments. State laws generally require local governments to reject a proposed assessment if more than 50 percent of the property owners protest in writing.

Some local governments also levy "standby charges," which are similar to assessments. Standby charges commonly finance water and sewer service expansions to new households and businesses. (The measure treats standby charges as assessments.)

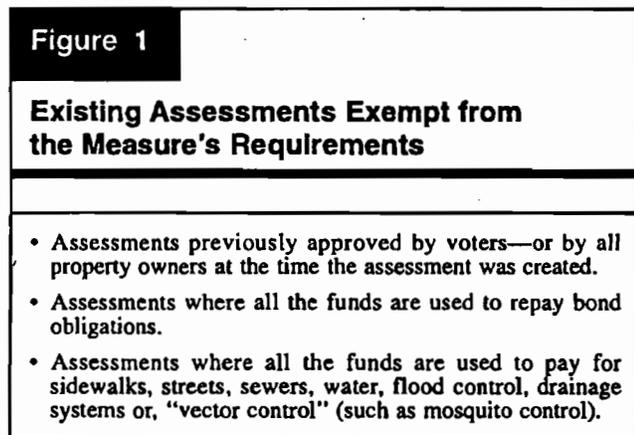
**Proposed Requirements for Assessments.** This measure would place extensive requirements on local governments charging assessments. Specifically, the measure requires all *new* or *increased* assessments—and some *existing* assessments—to meet four conditions.

- First, local governments must estimate the amount of "special benefit" landowners receive—or would receive—from a project or service. Special benefit is defined as a particular benefit to land and buildings, not a general benefit to the public at large or a general increase in property values. If a project provides both special benefits *and* general benefits, a local government may charge landowners only for the cost of providing the special benefit. Local government must use general revenues (such as taxes) to pay the remaining portion of the project or service's cost. In some cases, local government may not have sufficient revenues to pay this cost, or may choose not to pay it. In these cases, a project or service would not be provided.



- Second, local governments must ensure that no property owner's assessment is greater than the cost to provide the improvement or service to the owner's property. This provision would require local governments to examine assessment amounts in detail, potentially setting them on a parcel-by-parcel or block-by-block basis.
- Third, local governments must charge schools and other public agencies their share of assessments. Currently, public agencies generally do not pay assessments.
- Finally, local governments must hold a mail-in election for each assessment. Only property owners and any renters responsible for paying assessments would be eligible to vote. Ballots cast in these elections would be weighted based on the amount of the assessment the property owner or renter would pay. For example, if a business owner would pay twice as much assessment as a homeowner, the business owner's vote would "count" twice as much as the homeowner's vote.

Figure 1 summarizes the existing assessments that would be exempt from the measure's requirements. We estimate that more than half of all existing assessments would qualify for an exemption. All other existing assessments must meet the measure's requirements—including the voter approval requirement—by July 1, 1997.



**Taxes**

**Current Practice.** Local governments typically use taxes to pay for general government programs, such as police and fire services. Taxes are "general" if their revenues can be used to pay for many government programs, rather than being reserved for specific programs. Proposition 62—a statutory measure approved by the voters in 1986—requires new local general taxes to be approved by a majority vote of the people. Currently, there are lawsuits pending as to whether this provision applies to cities that have adopted a local charter, such as Los Angeles, Long Beach, Sacramento, San Jose, and many others.

**Proposed Requirements for Taxes.** The measure states that all *future* local general taxes, including those in cities with charters, must be approved by a majority vote of the people. The measure also requires *existing* local general taxes established after December 31, 1994, without a vote of the people to be placed before the voters within two years.

**Other Provisions**

**Burden of Proof.** Currently, the courts allow local governments significant flexibility in determining fee and assessment amounts. In lawsuits challenging property fees and assessments, the taxpayer generally has the "burden of proof" to show that they are not legal. This measure shifts the burden of proof in these lawsuits to local government. As a result, it would be easier for taxpayers to win lawsuits, resulting in reduced or repealed fees and assessments.

**Initiative Powers.** The measure states that Californians have the power to repeal or reduce any local tax, assessment, or fee through the initiative process. This provision broadens the existing initiative powers available under the State Constitution and local charters.

**FISCAL IMPACT**

**Revenue Reductions**

**Existing Revenues.** By July 1, 1997, local governments would be required to reduce or repeal existing property-related fees and assessments that do not meet the measure's restrictions on (1) fee and assessment amounts or (2) the use of these revenues. The most likely fees and assessments affected by these provisions would be those for: park and recreation programs, fire protection, lighting, ambulance, business improvement programs, library, and water service. Statewide, local government revenue reductions probably would exceed \$100 million annually. The actual level of revenue reduction would depend in large part on how the courts interpret various provisions of the measure. In addition, because local governments vary significantly in their reliance upon fees and assessments, the measure's impact on individual communities would differ greatly.

Within two years, local governments also would be required to hold elections on some recently imposed taxes and existing assessments. The total amount of these taxes and assessments is unknown, but probably exceeds \$100 million statewide. If voters do not approve these existing taxes and assessments, local governments would lose *additional* existing revenues.

**New Revenues.** The measure's restrictions and voter-approval requirements would constrain new and increased fees, assessments, and taxes. As a result, local government revenues in the future would be lower than they would be otherwise. The extent of these revenue reductions would depend on court interpretation of the measure's provisions and local government actions to replace lost revenues.



**Summary of Revenue Reductions.** In the short term, local government revenues probably would be reduced by more than \$100 million annually. Over time, local government revenues would be significantly lower than they would otherwise be, potentially by hundreds of millions of dollars annually. Individual and business payments to local government would decline by the same amount. In general, these local government revenue losses would result in comparable reductions in spending for local public services.

**Cost Increases**

Local governments would have significantly increased costs to hold elections, calculate fees and assessments,

notify the public, and defend their fees and assessments in court. These local increased costs are unknown, but could exceed \$10 million initially, and lesser amounts annually after that.

School and community college districts, state agencies, cities, counties, and other public agencies would have increased costs to pay their share of assessments. The amount of this cost is not known, but could total over \$10 million initially, and increasing amounts in the future.

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**For text of Proposition 218 see page 108**

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# 218

## Voter Approval for Local Government Taxes. Limitations on Fees, Assessments, and Charges. Initiative Constitutional Amendment.

### Argument in Favor of Proposition 218

**VOTE YES ON PROPOSITION 218. IT WILL GIVE YOU THE RIGHT TO VOTE ON TAX INCREASES!**

Proposition 218 guarantees your right to vote on local tax increases—even when they are called something else, like “assessments” or “fees” and imposed on homeowners.

Proposition 218 guarantees your right to vote on taxes imposed on your water, gas, electric, and telephone bills.

Proposition 218 does NOT prevent government from raising and spending money for vital services like police, fire and education. If politicians want to raise taxes they need only convince local voters that new taxes are really needed.

Proposition 218 simply extends the long standing constitutional protection against politicians imposing tax increases without voter approval.

After voters passed Proposition 13, politicians created a loophole in the law that allows them to raise taxes without voter approval by calling taxes “assessments” and “fees.”

Once this loophole was created, one lawyer working with politicians wrote, assessments “are now limited only by the limits of human imagination.”

How imaginative can the politicians be with assessments? Here are a few examples among thousands:

- A view tax in Southern California—the better the view of the ocean you have the more you pay.
- In Los Angeles, a proposal for assessments for a \$2-million scoreboard and a \$6-million equestrian center to be paid for by property owners.
- In Northern California, taxpayers 27 miles away from a park are assessed because their property supposedly benefits from that park.
- In the Central Valley, homeowners are assessed to refurbish a college football field.

**TAXPAYERS HAVE NO RIGHT TO VOTE ON THESE TAX INCREASES AND OTHERS LIKE THEM UNLESS PROPOSITION 218 PASSES!**

Proposition 218 will significantly tighten the kind of benefit assessments that can be levied.

Here are examples of why fees and assessments and other nonvoted taxes are so unfair:

- The poor pay the same assessments as the rich. An elderly widow pays exactly the same on her modest home as a tycoon with a mansion.
- There are now over 5,000 local districts which can impose fees and assessments without the consent of local voters. Special districts have increased assessments by over 2400% over 15 years. Likewise, cities have increased utility taxes 415% and raised benefit assessments 976%, a ten-fold increase.

Non-voted taxes on electricity, gas, water, and telephone services hit renters and homeowners hard.

And, retired homeowners get hit doubly hard!

To confirm the impact of fees and assessments on you, look at your property tax bill. You will see a growing list of assessments imposed without voter approval. The list will grow even longer unless Proposition 218 passes.

Proposition 218 will allow you and your neighbors—not politicians—to decide how high your taxes will be. It will allow those who pay assessments to decide if what they are being asked to pay for is worth the cost.

**FOR THE RIGHT TO VOTE ON TAXES, VOTE YES C PROPOSITION 218.**

**JOEL FOX**

*President, Howard Jarvis Taxpayers Association*

**JIM CONRAN**

*President, Consumers First*

**RICHARD GANN**

*President, Paul Gann's Citizens Committee*

### Rebuttal to Argument in Favor of Proposition 218

**PROPOSITION 218 IS NO FALSE ALARM . . . IT HURTS**

Propositions can deceive, so carefully judge who you believe.

Beware of wild claims for new “constitutional rights” and people who pretend concern about widows and orphans.

Read Proposition 218 yourself and see how large corporations, big landowners and foreign interests gain more voting power than YOU.

Promoters say you get “tax reform” . . . you may actually get serious cutbacks in local service and FEWER VOTING RIGHTS for millions of California citizens.

Sometimes we hear hysterical warnings about bad things that never occur . . . Proposition 218 is a REAL threat. On Proposition 218 consider the harm to EXISTING local services, not vague future threats:

- May reduce CURRENT funding for police, fire and emergency medical programs across California.
- Worsens SCHOOL CROWDING by making public schools pay NEW TAXES, cutting classroom teaching.
- Could eliminate LifeLine utility support for SENIORS and disabled citizens.

**CONSTITUTIONAL POWER SHIFT.**

Proposition 218 etches this into the state Constitution:

- Blocks 3 million Californians from voting on tax assessments. The struggling young couple renting a small home, WILL HAVE NO VOTE on the assessments imposed on the house they rent.
- Grants special land interests more voting power than average homeowners. The “elderly widow” promoters cite will be banned from voting if she is a renter, or her voting power dwarfed by large property owners.
- Gives non-citizens voting rights on your community taxes. Proposition 218 is a great deal for wealthy special interests. But it's a bad deal for the average taxpayer, homeowner and renter.

**HOWARD OWENS**

*Congress of California Seniors*

**LOIS TINSON**

*President, California Teachers Association*

**RON SNIDER**

*President, California Association of Highway Patrolmen*

# Voter Approval for Local Government Taxes. Limitations on Fees, Assessments, and Charges. Initiative Constitutional Amendment.

# 218

## Argument Against Proposition 218

### PROPOSITION 218 DILUTES VOTING RIGHTS, HURTS LOCAL SERVICES

In the disguise of tax reform, Proposition 218's Constitutional Amendment **REDUCES YOUR VOTING POWER** and gives huge voting power to corporations, foreign interests and wealthy land owners.

It cuts police, fire, library, park, senior, and disabled services and diverts funds needed for classroom-size reductions.

Read Proposition 218 carefully—it's a wolf, not a lamb!

### YOU LOSE RIGHTS; CORPORATIONS, DEVELOPERS, NON-CITIZENS GAIN VOTING POWER

Section 4(e) of Proposition 218 changes the Constitution to give corporations, wealthy landowners and developers **MORE VOTING POWER THAN HOMEOWNERS**. It lets large outside interests control community taxes—against the will of local citizens.

**EXAMPLE:** An oil company owns 1000 acres, you own one acre; the oil corporation gets 1000 times more voting power than you.

While Prop. 218 gives voting power to outside interests, Section 4(g) denies voting rights to more than 3,000,000 California renters.

Reducing American citizens' Constitutional rights, it grants voting rights to corporations and absentee landowners—even foreign citizens.

**EXAMPLE:** A shopping center owned by a foreign citizen is worth 100 times as much as your home; that person gets 100 times more voting power than you!

Every citizen should have the right to vote if a community is voting on local assessments for police, fire, emergency medical and library programs. It's unfair to give voting power to non-citizens, big landowners and developers, yet deny it to millions of Californians.

### MAY CUT LOCAL POLICE, FIRE PROTECTION

Section 6(b)(5) eliminates vital funding sources for local police, fire, emergency medical and library services.

Proposition 218 goes too far—may forbid emergency assessments for earthquakes, floods and fires.

Don't handcuff police and firefighters. The California Police Chiefs Association, Fire Chiefs Association and California Professional Firefighters ask you to vote NO.

The impartial Legislative Analyst's report shows how Proposition 218 could impede LifeLine support for the elderly and disabled. It prohibits seniors and disabled from receiving needed utility services unless they pay all costs themselves.

Proposition 218 cuts more than \$100 million from local services, yet wastes tens of millions each year by changing the Constitution to require 5,000 local elections even if local citizens don't want an election . . . even if the election cost is more than the potential revenue.

### MAKES SCHOOL CROWDING WORSE

California teachers oppose Proposition 218 because Section 4(a) imposes a new tax on public school property, diverting millions from classroom programs to pay for non-school expenses.

California already has the most crowded classrooms in America (dead last of 50 states). Proposition 218 makes school crowding worse.

### SHELL GAME

This measure takes a few good ideas, but twists and perverts them. It cripples the best local services and puts more power into the hands of special interests and non-citizens.

Proposition 218 goes too far. Assessment laws DO need improvement, but Proposition 218 is the wrong way to do it. It does more harm than good, restricting our voting rights, hurting schools, seniors and public safety programs.

Please vote NO on Proposition 218.

### FRAN PACKARD

*President, League of Women Voters of California*

### CHIEF RON LOWENBERG

*President, California Police Chiefs' Association*

### CHIEF JEFF BOWMAN

*President, California Fire Chiefs' Association*

## Rebuttal to Argument Against Proposition 218

Arguments against Proposition 218 are misleading and designed to confuse voters. In truth:

1. Proposition 218 expands your voting rights. It **CONSTITUTIONALLY GUARANTEES** your right to vote on taxes.
2. Under Proposition 218, only California registered voters, including renters, can vote in tax elections. Corporations and foreigners get no new rights.
3. Current law already allows property owners, including nonresidents, to act on property assessments based on the assessment amount they pay. This is **NOT** created by Proposition 218.
4. "Lifeline" rates for elderly and disabled for telephone, gas, and electric services are **NOT** affected.
5. Proposition 218 allows voter approved taxes for police, fire, education.

Proposition 218 simply gives taxpayers the right to vote on taxes and stops politicians' end-runs around Proposition 13.

That's why ordinary taxpayers, seniors, parents, homeowners, renters, consumer advocates, support Proposition 218.

Under Proposition 218, officials must convince taxpayers that tax increases are justified. Politicians and special interest groups don't like this idea. But they can't win by saying "taxpayers should not vote on taxes," so they use misleading statements to confuse a simple question.

That question: **DO YOU BELIEVE TAXPAYERS SHOULD HAVE THE RIGHT TO VOTE ON TAXES?** If you answered "yes", **VOTE YES ON PROPOSITION 218.**

Read the nonpartisan, independent **SUMMARY** by the Attorney General, which begins "**VOTER APPROVAL FOR LOCAL GOVERNMENT TAXES.**" And, by all means read your property tax bill, due out now. Then you'll know the truth.

**FOR THE RIGHT TO VOTE ON TAXES, VOTE YES ON PROPOSITION 218!**

### CAROL ROSS EVANS

*Vice-President, California Taxpayers Association*

### FELICIA ELKINSON

*Past President, Council of Sacramento Senior Organizations*

### LEE PHELPS

*Founder, Alliance of California Taxpayers and Involved Voters (ACTIV)*

computed as if the taxpayer was a resident for all prior years.

(c) There shall be imposed for each taxable year upon the taxable income of every estate, trust, or common trust fund taxes equal to the amount computed under subdivision (a) for an individual having the same amount of taxable income.

(f) The tax imposed by this part is not a surtax.

(g) (1) Section 1 (g) of the Internal Revenue Code, relating to certain unearned income of minor children taxed as if the parent's income, shall apply, except as otherwise provided.

(2) Section 1(g)(7)(B)(ii)(II) of the Internal Revenue Code, relating to income included on parent's return, is modified, for purposes of this part, by substituting "five dollars (\$5)" for "seventy-five dollars (\$75)" and "1 percent" for "15 percent."

(h) For each taxable year beginning on or after January 1, 1988, the Franchise Tax Board shall recompute the income tax brackets prescribed in subdivisions (a) and (c). That computation shall be made as follows:

(1) The California Department of Industrial Relations shall transmit annually to the Franchise Tax Board the percentage change in the California Consumer Price Index for all items from June of the prior calendar year to June of the current calendar year, no later than August 1 of the current calendar year.

(2) The Franchise Tax Board shall do both of the following:

(A) Compute an inflation adjustment factor by adding 100 percent to the percentage change figure that is furnished pursuant to paragraph (1) and dividing the result by 100.

(B) Multiply the preceding taxable year income tax brackets by the inflation adjustment factor determined in subparagraph (A) and round off the resulting products to the nearest one dollar (\$1).

(i) (1) For purposes of this section, the term "California adjusted gross income" includes each of the following:

(A) For any part of the taxable year during which the taxpayer was a resident of this state (as defined by Section 17014), all items of adjusted gross income, regardless of source.

(B) For any part of the taxable year during which the taxpayer was not a resident of this state, only those items of adjusted gross income which were derived from sources within this state, determined in accordance with Chapter 11 (commencing with Section 17951).

(2) For purposes of computing "California adjusted gross income" under paragraph (1), the amount of any net operating loss sustained in any taxable year during any part of which the taxpayer was not a resident of this state shall be limited to the sum of the following:

(A) The amount of the loss attributable to the part of the taxable year in which the taxpayer was a resident.

(B) The amount of the loss which, during the part of the taxable year the taxpayer is not a resident, is attributable to California source income and deductions allowable in arriving at adjusted gross income.

(j) It is the intent of the people of the State of California in enacting the amendments to this section made by the statutory initiative adding this subdivision to continue those marginal income tax rates that affect only the very highest income taxpayers and would otherwise expire in 1996, in order to generate those revenues necessary to provide a basic level of local fiscal relief and maintain the state's ability to fulfill its other obligations. It is the intent of the people of the State of California that any future enactment that alters the rate, base, or burden of the state personal income tax at least maintain the level and proportionate share of revenues derived from the marginal income tax rates provided for by the statutory initiative adding this subdivision.

Section 5. Allocation of revenues from state to local government.

Section 19603 of the Revenue and Taxation Code is amended to read:

19603. The (a) Except as provided in subdivision (b), the balance of the moneys in the Personal Income Tax Fund shall, upon order of the Controller, be drawn therefrom for the purpose of making refunds under this part or be transferred to the General Fund undelivered refund warrants shall be redeposited in the Personal Income Tax Fund receipt by the Controller.

(b) (1) (A) Subject to any reduction required by subparagraph (B), on December 1 of each fiscal year, there is hereby deposited in the Local Agency Fiscal Restoration Account, which is hereby created in the General Fund, that additional amount of personal income tax revenue that is collected for the immediately preceding taxable year as a result of the amendments to Section 17041 made by the statutory initiative adding this subdivision, which continue in existence the two highest personal income tax rates.

(B) Notwithstanding any other provision of law, any increase resulting from the statutory initiative adding this subdivision in the amount of state educational funding required by Section 8 of Article XVI of the California Constitution and any implementing statute shall be funded from a reduction in the amount of the deposit otherwise required by subparagraph (A). In no event shall the statutory initiative adding this subdivision result in a level of state educational funding that is less than the level of state education funding that would occur in the absence of that measure.

(2) In each fiscal year, the full amount of revenues that is deposited in the Local Agency Fiscal Restoration Account pursuant to paragraph (1) is hereby appropriated to the Controller for apportionment among all counties in the state. Based upon information provided by the Department of Finance, the Controller shall make an apportionment to each county in accordance with the proportion that the total amount of revenue, required to be shifted for the prior fiscal year from all local agencies in the county as a result of Sections 97.2 and 97.3, bears to the total amount required to be shifted for the prior fiscal year as a result of those same sections for all local agencies in the state. For purposes of determining proportionate shares pursuant to the preceding sentence, the Controller shall reduce the total amount of shift revenue determined for all local agencies of a county by the total amount of revenue allocated in that county pursuant to Section 35 of Article XIII of the California Constitution, and shall also reduce the total amount of shift revenues determined for all local agencies in the state by the total amount of revenue allocated in the state pursuant to that same constitutional provision. Each apportionment received by a county pursuant to this section shall be deposited by the county treasurer as provided in Section 30061 of the Government Code. For purposes of this subdivision, "local agency" has the same meaning as that same term is used in Section 30061 of the Government Code.

(c) It is the intent of the people of the State of California in enacting subdivision (b) to make those personal income tax revenues, derived from the tax rates imposed upon only the very highest income taxpayers, available to relieve local agencies that have been required by state law to assume a portion of the state's funding burden, and thereby allow those agencies to better fund essential public services.

Section 6. The Legislature may amend this measure only by a statute, passed in a house of the Legislature by a two-thirds vote, that is consistent with and furthers the purpose of this measure. However, the Legislature may enact a statute to implement subdivision (h) of Section 1 of this measure with the approval of only a majority of each house of the Legislature.

## Proposition 218: Text of Proposed Law

This initiative measure is submitted to the people in accordance with the provisions of Article II, Section 8 of the Constitution.

This initiative measure expressly amends the Constitution by adding articles thereto; therefore, new provisions proposed to be added are printed in *italic type* to indicate that they are new.

### PROPOSED ADDITION OF ARTICLE XIII C AND ARTICLE XIII D

#### RIGHT TO VOTE ON TAXES ACT

SECTION 1. TITLE. This act shall be known and may be cited as the "Right to Vote on Taxes Act."

SECTION 2. FINDINGS AND DECLARATIONS. The people of the State of California hereby find and declare that Proposition 13 was intended to provide effective tax relief and to require voter approval of tax increases. However, local governments have subjected taxpayers to excessive tax, assessment, fee and charge increases that not only frustrate the purposes of voter approval for tax increases, but also threaten the economic security of all Californians and the California economy itself. This measure protects taxpayers by limiting the methods by which local governments exact revenue from taxpayers without their consent.

SECTION 3. VOTER APPROVAL FOR LOCAL TAX LEVIES. Article XIII C is added to the California Constitution to read:

#### ARTICLE XIII C

SECTION 1. Definitions. As used in this article:

(a) "General tax" means any tax imposed for general governmental purposes.

(b) "Local government" means any county, city, city and county, including a charter city or county, any special district, or any other local or regional governmental entity.

(c) "Special district" means an agency of the state, formed pursuant to general law or a special act, for the local performance of governmental or proprietary functions with limited geographic boundaries including, but not limited to, school districts and redevelopment agencies.

(d) "Special tax" means any tax imposed for specific purposes, including a tax imposed for specific purposes, which is placed into a general fund.

SEC. 2. Local Government Tax Limitation. Notwithstanding any other provision of this Constitution:

(a) All taxes imposed by any local government shall be deemed to be either general taxes

or special taxes. Special purpose districts or agencies, including school districts, shall have no power to levy general taxes.

(b) No local government may impose, extend, or increase any general tax unless and until that tax is submitted to the electorate and approved by a majority vote. A general tax shall not be deemed to have been increased if it is imposed at a rate not higher than the maximum rate so approved. The election required by this subdivision shall be consolidated with a regularly scheduled general election for members of the governing body of the local government, except in cases of emergency declared by a unanimous vote of the governing body.

(c) Any general tax imposed, extended, or increased, without voter approval, by any local government on or after January 1, 1995, and prior to the effective date of this article, shall continue to be imposed only if approved by a majority vote of the voters voting in an election on the issue of the imposition, which election shall be held within two years of the effective date of this article and in compliance with subdivision (b).

(d) No local government may impose, extend, or increase any special tax unless and until that tax is submitted to the electorate and approved by a two-thirds vote. A special tax shall not be deemed to have been increased if it is imposed at a rate not higher than the maximum rate so approved.

SEC. 3. Initiative Power for Local Taxes, Assessments, Fees and Charges. Notwithstanding any other provision of this Constitution, including, but not limited to, Sections 8 and 9 of Article II, the initiative power shall not be prohibited or otherwise limited in matters of reducing or repealing any local tax, assessment, fee or charge. The power of initiative to affect local taxes, assessments, fees and charges shall be applicable to all local governments and neither the Legislature nor any local government charter shall impose a signature requirement higher than that applicable to statewide statutory initiatives.

#### SECTION 4. ASSESSMENT AND PROPERTY RELATED FEE REFORM.

Article XIII D is added to the California Constitution to read:

#### ARTICLE XIII D

SECTION 1. Application. Notwithstanding any other provision of law, the provisions of this article shall apply to all assessments, fees and charges, whether imposed pursuant to state statute or local government charter authority. Nothing in this article or Article XI shall be construed to:

(a) Provide any new authority to any agency to impose a tax, assessment, fee, or charge.

(b) Affect existing laws relating to the imposition of fees or charges as a condition of property development.

(c) Affect existing laws relating to the imposition of timber yield taxes.



SEC. 2. Definitions. As used in this article:

(a) "Agency" means any local government as defined in subdivision (b) of Section 1 of Article XIII C.

(b) "Assessment" means any levy or charge upon real property by an agency for a special benefit conferred upon the real property. "Assessment" includes, but is not limited to, "benefit assessment," "maintenance assessment" and "special assessment tax."

(c) "Capital cost" means the cost of acquisition, installation, construction, reconstruction, or replacement of a permanent public improvement by an agency.

(d) "District" means an area determined by an agency to contain all parcels which will receive a special benefit from a proposed public improvement or property-related service.

(e) "Fee" or "charge" means any levy other than an ad valorem tax, a special tax, or an assessment, imposed by an agency upon a parcel or upon a person as an incident of property ownership, including a user fee or charge for a property related service.

(f) "Maintenance and operation expenses" means the cost of rent, repair, replacement, rehabilitation, fuel, power, electrical current, care, and supervision necessary to properly operate and maintain a permanent public improvement.

(g) "Property ownership" shall be deemed to include tenancies of real property where tenants are directly liable to pay the assessment, fee, or charge in question.

(h) "Property-related service" means a public service having a direct relationship to property ownership.

(i) "Special benefit" means a particular and distinct benefit over and above general benefits conferred on real property located in the district or to the public at large. General enhancement of property value does not constitute "special benefit."

SEC. 3. Property Taxes, Assessments, Fees and Charges Limited. (a) No tax, assessment, fee, or charge shall be assessed by any agency upon any parcel of property or upon any person as an incident of property ownership except:

(1) The ad valorem property tax imposed pursuant to Article XIII and Article XIII A.

(2) Any special tax receiving a two-thirds vote pursuant to Section 4 of Article XIII A.

(3) Assessments as provided by this article.

(4) Fees or charges for property related services as provided by this article.

(b) For purposes of this article, fees for the provision of electrical or gas service shall not be deemed charges or fees imposed as an incident of property ownership.

SEC. 4. Procedures and Requirements for All Assessments. (a) An agency which proposes to levy an assessment shall identify all parcels which will have a special benefit conferred upon them and upon which an assessment will be imposed. The proportionate special benefit derived by each identified parcel shall be determined in relationship to the entirety of the capital cost of a public improvement, the maintenance and operation expenses of a public improvement, or the cost of the property related service being provided. No assessment shall be imposed on any parcel which exceeds the reasonable cost of the proportional special benefit conferred on that parcel. Only special benefits are assessable, and an agency shall separate the general benefits from the special benefits conferred on a parcel. Parcels within a district that are owned or used by any agency, the State of California or United States shall not be exempt from assessment unless the agency can demonstrate clear and convincing evidence that those publicly owned parcels in fact receive no special benefit.

(b) All assessments shall be supported by a detailed engineer's report prepared by a registered professional engineer certified by the State of California.

(c) The amount of the proposed assessment for each identified parcel shall be calculated and the record owner of each parcel shall be given written notice by mail of the proposed assessment, the total amount thereof chargeable to the entire district, the amount chargeable to the owner's particular parcel, the duration of the payments, the reason for the assessment and the basis upon which the amount of the proposed assessment was calculated, together with the date, time, and location of a public hearing on the proposed assessment. Each notice shall also include, in a conspicuous place thereon, a summary of the procedures applicable to the completion, return, and tabulation of the ballots required pursuant to subdivision (d), including a disclosure statement that the existence of a majority protest, as defined in subdivision (e), will result in the assessment not being imposed.

(d) Each notice mailed to owners of identified parcels within the district pursuant to subdivision (c) shall contain a ballot which includes the agency's address for receipt of the ballot once completed by any owner receiving the notice whereby the owner may indicate his or her name, reasonable identification of the parcel, and his or her support or opposition to the proposed assessment.

(e) The agency shall conduct a public hearing upon the proposed assessment not less than 45 days after mailing the notice of the proposed assessment to record owners of each identified parcel. At the public hearing, the agency shall consider all protests against the proposed assessment and tabulate the ballots. The agency shall not impose an assessment if there is a majority protest. A majority protest exists if, upon the conclusion of the hearing, ballots submitted in opposition to the assessment exceed the ballots submitted in favor of the assessment. In tabulating the ballots, the ballots shall be weighted according to the proportional financial obligation of the affected property.

(f) In any legal action contesting the validity of any assessment, the burden shall be on the agency to demonstrate that the property or properties in question receive a special benefit over and above the benefits conferred on the public at large and that the amount of any contested assessment is proportional to, and no greater than, the benefits conferred on the property or properties in question.

(g) Because only special benefits are assessable, electors residing within the district who do not own property within the district shall not be deemed under this Constitution to have been deprived of the right to vote for any assessment. If a court determines that the Constitution of the United States or other federal law requires otherwise, the assessment shall

not be imposed unless approved by a two-thirds vote of the electorate in the district in addition to being approved by the property owners as required by subdivision (e).

SEC. 5. Effective Date. Pursuant to subdivision (a) of Section 10 of Article II, the provisions of this article shall become effective the day after the election unless otherwise provided. Beginning July 1, 1997, all existing, new, or increased assessments shall comply with this article. Notwithstanding the foregoing, the following assessments existing on the effective date of this article shall be exempt from the procedures and approval process set forth in Section 4:

(a) Any assessment imposed exclusively to finance the capital costs or maintenance and operation expenses for sidewalks, streets, sewers, water, flood control, drainage systems or vector control. Subsequent increases in such assessments shall be subject to the procedures and approval process set forth in Section 4.

(b) Any assessment imposed pursuant to a petition signed by the persons owning all of the parcels subject to the assessment at the time the assessment is initially imposed. Subsequent increases in such assessments shall be subject to the procedures and approval process set forth in Section 4.

(c) Any assessment the proceeds of which are exclusively used to repay bonded indebtedness of which the failure to pay would violate the Contract Impairment Clause of the Constitution of the United States.

(d) Any assessment which previously received majority voter approval from the voters voting in an election on the issue of the assessment. Subsequent increases in those assessments shall be subject to the procedures and approval process set forth in Section 4.

SEC. 6. Property Related Fees and Charges. (a) Procedures for New or Increased Fees and Charges. An agency shall follow the procedures pursuant to this section in imposing or increasing any fee or charge as defined pursuant to this article, including, but not limited to, the following:

(1) The parcels upon which a fee or charge is proposed for imposition shall be identified. The amount of the fee or charge proposed to be imposed upon each parcel shall be calculated. The agency shall provide written notice by mail of the proposed fee or charge to the record owner of each identified parcel upon which the fee or charge is proposed for imposition, the amount of the fee or charge proposed to be imposed upon each, the basis upon which the amount of the proposed fee or charge was calculated, the reason for the fee or charge, together with the date, time, and location of a public hearing on the proposed fee or charge.

(2) The agency shall conduct a public hearing upon the proposed fee or charge not less than 45 days after mailing the notice of the proposed fee or charge to the record owners of each identified parcel upon which the fee or charge is proposed for imposition. At the public hearing, the agency shall consider all protests against the proposed fee or charge. If written protests against the proposed fee or charge are presented by a majority of owners of the identified parcels, the agency shall not impose the fee or charge.

(b) Requirements for Existing, New or Increased Fees and Charges. A fee or charge shall not be extended, imposed, or increased by any agency unless it meets all of the following requirements:

(1) Revenues derived from the fee or charge shall not exceed the funds required to provide the property related service.

(2) Revenues derived from the fee or charge shall not be used for any purpose other than that for which the fee or charge was imposed.

(3) The amount of a fee or charge imposed upon any parcel or person as an incident of property ownership shall not exceed the proportional cost of the service attributable to the parcel.

(4) No fee or charge may be imposed for a service unless that service is actually used by, or immediately available to, the owner of the property in question. Fees or charges based on potential or future use of a service are not permitted. Standby charges, whether characterized as charges or assessments, shall be classified as assessments and shall not be imposed without compliance with Section 4.

(5) No fee or charge may be imposed for general governmental services including, but not limited to, police, fire, ambulance or library services, where the service is available to the public at large in substantially the same manner as it is to property owners.

Reliance by an agency on any parcel map, including, but not limited to, an assessor's parcel map, may be considered a significant factor in determining whether a fee or charge is imposed as an incident of property ownership for purposes of this article. In any legal action contesting the validity of a fee or charge, the burden shall be on the agency to demonstrate compliance with this article.

(c) Voter Approval for New or Increased Fees and Charges. Except for fees or charges for sewer, water, and refuse collection services, no property related fee or charge shall be imposed or increased unless and until that fee or charge is submitted and approved by a majority vote of the property owners of the property subject to the fee or charge or, at the option of the agency, by a two-thirds vote of the electorate residing in the affected area. The election shall be conducted not less than 45 days after the public hearing. An agency may adopt procedures similar to those for increases in assessments in the conduct of elections under this subdivision.

(d) Beginning July 1, 1997, all fees or charges shall comply with this section.

SECTION 5. LIBERAL CONSTRUCTION. The provisions of this act shall be liberally construed to effectuate its purposes of limiting local government revenue and enhancing taxpayer consent.

SECTION 6. SEVERABILITY. If any provision of this act, or part thereof, is for any reason held to be invalid or unconstitutional, the remaining sections shall not be affected, but shall remain in full force and effect, and to this end the provisions of this act are severable.



Secretary of State  
1500 11th Street  
Sacramento, CA 95814

BULK RATE  
U.S.  
POSTAGE  
PAID  
Secretary of  
State



This artwork was chosen as the winner in the 1996 "You've Got The Power Logo Contest".  
The artist is David Castillo, Jr. of Coachella Valley High School in Coachella, California.

### IMPORTANT NOTICE

The State produces a cassette-recorded version of this ballot pamphlet. These tape recordings are available from most public libraries. If you have a family member or friend who is *visually impaired*, please inform him or her of this service. Cassettes can be obtained by calling your local public library or your county elections official.

In an effort to reduce election costs, the State Legislature has authorized the State and counties having this capability to mail only one ballot pamphlet to addresses where more than one voter with the same surname resides. If you wish additional copies, you may obtain them by calling or writing to your county elections official.

**ELECTION  
MATERIAL**



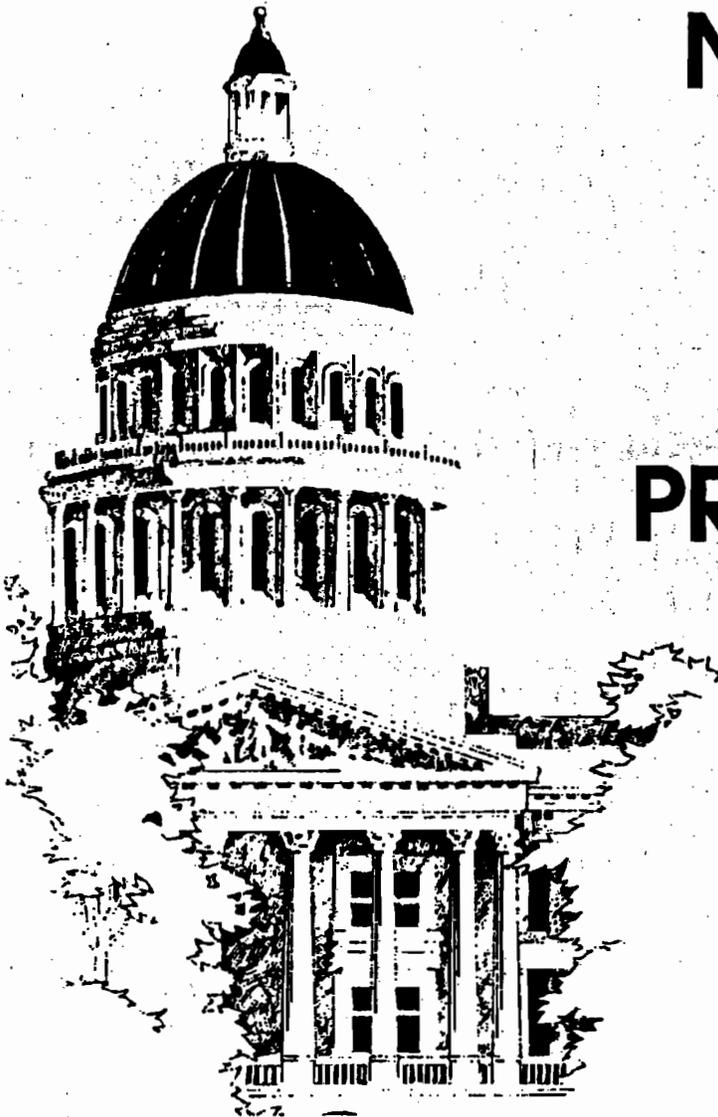
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EXHIBIT 2

California State Legislature

Senate Local Government Committee  
Senate Revenue and Taxation Committee



# NOVEMBER 1996 BALLOT

## PROPOSITION 218:

### RIGHT TO VOTE ON TAXES ACT

LEGISLATIVE INTENT SERVICE (800) 666-1917



SEPTEMBER 1996

2

**PROPOSITION 218:  
RIGHT TO VOTE ON TAXES ACT**

On Tuesday, September 24, 1996, the Senate Committees on Local Government and Revenue and Taxation held an interim hearing on Proposition 218, a proposed constitutional amendment on the November 5, 1996 state ballot. The Committees' Chairmen, Senator William A. Craven and Senator Lucy Killea, presided over the hearing. Other Senators attending the hearing at the State Capitol included: Senator Ayala, Senator Hurtt, Senator Johnson, Senator Rosenthal, and Senator Russell.

This staff summary of the interim hearing reports who spoke and summarizes their views. Although it attempts to accurately reflect what was said, any summary must inevitably skip over details. Readers may wish to refer to witnesses' own prepared statements which are reprinted in the back of this report.

The report also includes a revised version of the background report prepared by the Committee's staff.

**The Witnesses**

Thirteen witnesses spoke at the Committees' hearing. Eight of the witnesses submitted written testimony which is included in the back of this report and denoted by an asterisk (\*) next to the witnesses name:

Marianne O'Malley, Legislative Analyst's Office \*  
Jean Ross, California Budget Project \*  
Steve Kroes, Cal-Tax \*  
Jonathan Coupal, Howard Jarvis Taxpayers Association\*  
Michael Colantuono, Richards, Watson & Gershon Law Firm\*  
Michael Coleman, City of Sacramento  
Barbara Steckel, City of Riverside\*  
Steve Williams, City of Palmdale  
Dan Wall, California State Association of Counties  
Jim Knox, Planning and Conservation League  
Stephen E. Heaney, California Public Securities Association  
Marsha Knudson, Stockton Teachers Association\*  
Trudy Schafer, League of Women Voters\*



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## HEARING OVERVIEW

### *Proposition 218's Provisions*

Marianne O'Malley began the hearing with an overview of Proposition 218. She described the initiative as a "major and complex measure." O'Malley presented Proposition 218's provisions and discussed its comprehensive affects on all local revenues. She said that the initiative will add uncertainty to local government but will reduce taxpayers' burden and local spending.

### *Local Agencies' Use of Assessments and Fees*

Two witnesses presented data on local agencies past and present reliance on assessments, and fees. Jean Ross used the State Controller's data to show that assessments are a small part of local governments' total revenues. She noted that local governments generate less assessment and fee revenue today than they did before Propositions 13. Ross said that local agencies are relying in greater part on special taxes.

Steve Kroes described local agencies' traditional use of assessments to finance physical improvements adjacent to property. Since Proposition 13, he noted that the Legislature has broadened the assessment statutes to allow their use for more remote facilities and services. He said that though assessments represent a small portion of local revenues, they've caused uneasiness with taxpayers.

### *Proponents*

Jonathan Coupal, the initiative's sponsor, testified that his organization has tried seven times in the last nine years to get the Legislature to enact assessment reform. Coupal said that his organization's goal is to give those who will pay assessments and fees the final say over whether or not the assessment or fee is enacted.

Coupal agreed with Kroes' statement that local agencies used assessments appropriately until the passage of Proposition 13. Since then, Coupal stated, local agencies have used state assessment laws to impose "flat-rate parcel taxes" instead of levying assessments to recoup the costs of special benefits to property owners. He testified that 90% of the assessment abuses involve the Landscaping and Lighting Act of 1972. Coupal noted that even if Proposition 218 passes, lots of local assessments will remain, since the measure's drafters cautiously protected many existing and future assessments.

Steve Kroes testified that Proposition 218 is on the ballot because taxpayers and businesses are concerned with the growing trend of "opportunistic public finance." He noted that local agencies' reliance on assessments has dramatically increased and can create a de facto "split roll" by imposing inordinate assessments on business without a corresponding level of control.



## *Opponents*

Proposition 218's opponents expressed concern over the initiative's ambiguity, costs, potential for litigation, and lack of public safety protections.

Michael Colantuono predicted that the measure's vague terms and burden of proof requirements for local agencies would lead to litigation. He also testified that the initiative's requirements for assessment and fee structures would prevent local agencies from accomplishing social goals such as encouraging water conservation or providing basic phone service to all through "Lifeline" rates. Moreover, Colantuono noted that the initiative prohibits local officials from overriding landowner protests even when assessments are needed to protect the public health and safety. Finally, he testified that Proposition 218's initiative provisions could be detrimental to local debt issuance.

Michael Coleman said that Proposition 218 will be expensive because it increases local agencies' costs to impose assessments and fees, and because it shifts the burden of proof for defending those levies to local agencies. He testified that it will be difficult for local general funds to pay for general benefits that will not be assessable, and that local officials will face higher debt issuance costs.

Barbara Steckel specified that she was not testifying for or against Proposition 218, but that the measure would have a significant impact on local agencies.

Steve Williams testified that the City of Palmdale relies heavily on the Landscaping and Lighting Act of 1972 to fund landscaping and maintenance. He stated that the City's general fund could not absorb any of the landscaping costs that would no longer be assessable under Proposition 218. He said that if the initiative passes, his City would simply clear away the landscaping and eliminate 40 jobs.

Dan Wall expressed his organization's opposition to Proposition 218. He noted that the initiative's provision runs counter to the long-standing tradition of representative democracy. He testified that elected representatives will be unable to balance a community's needs if they can only control expenditures, but not revenues. He stated that counties currently control 2% or less of their own revenues. He also noted that a recent ruling by the Fair Political Practices Commission make it difficult for local agencies to convey Proposition 218's likely consequences in local communities.

Jim Knox called Proposition 218 "ambiguous." As an example, he questioned whether the initiative would allow assessments to increase according to a pre-approved schedule or range. Knox also testified that the measure was a threat to public health since it lacks provisions for emergency assessments.

Stephen E. Heaney testified that Proposition 218 will have a tremendous effect on present and future local agency debt, especially certificates of participation (COPs) and lease-revenue bonds. He said that the measure's provision allowing voters to reduce or eliminate a revenue stream at any time will be very worrisome to existing and potential investors.



Marsha Knudson testified that the initiative will drain resources away from schools by requiring public agencies to pay assessments. She stated that schools need to retain their revenues to upgrade technology, purchase computers, and provide safety services.

Trudy Schafer expressed her organization's vigorous opposition to Proposition 218. She said the measure would hamstring local agencies, threaten service funding, and hinder long-range planning. Moreover, she stated that Proposition 218's weighted voting procedures would disenfranchise small landowners and renters. Finally, she said that public agencies should not be forced to pay assessments.



# CALIFORNIA LEGISLATURE

STATE CAPITOL  
SACRAMENTO, CALIFORNIA  
95814

**PROPOSITION 218**  
**A JOINT INTERIM HEARING**  
**OF THE**  
**SENATE LOCAL GOVERNMENT COMMITTEE**  
**AND THE**  
**SENATE REVENUE AND TAXATION COMMITTEE**  
**SEPTEMBER 24, 1996 --- 10:00 A.M.**  
**STATE CAPITOL, ROOM 3191**

- |             |                                                                                                                                                                                                                                                                                                                                                                                                                                                            |                      |
|-------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------|
| <b>I.</b>   | <b>Proposition 218: What it says.</b><br>Marianne O'Malley, Legislative Analyst's Office                                                                                                                                                                                                                                                                                                                                                                   | <b>10:00 - 10:20</b> |
| <b>II.</b>  | <b>Local Agencies Use of Assessments and Fees.</b><br>Jean Ross, California Budget Project<br>Steve Kroes, Cal-Tax                                                                                                                                                                                                                                                                                                                                         | <b>10:20 - 10:40</b> |
| <b>III.</b> | <b>Proponents.</b><br>Jonathan Coupal, Howard Jarvis Taxpayers Association<br>Steve Kroes, Cal-Tax                                                                                                                                                                                                                                                                                                                                                         | <b>10:40 - 11:10</b> |
| <b>IV.</b>  | <b>Opponents.</b><br>Michael Colantuono, Richards, Watson & Gershon Law Firm<br>Michael Coleman, City of Sacramento<br>Barbara Steckel, City of Riverside<br>Steve Williams, City of Palmdale<br>Dan Wall, California State Association of Counties<br>Jim Knox, Planning and Conservation League<br>Stephen E. Heaney, California Public Securities Association<br>Marsha Knudson, Stockton Teachers Association<br>Trudy Schafer, League of Women Voters | <b>11:10 - 12:50</b> |
| <b>V.</b>   | <b>Public Comment.</b>                                                                                                                                                                                                                                                                                                                                                                                                                                     | <b>12:50 - 1:00</b>  |



**Proposition 218  
"Right to Vote on Taxes Act"**

**A Joint Hearing of the  
Senate Local Government Committee  
and the  
Senate Revenue & Taxation Committee**

**September 24, 1996  
Room 3191, State Capitol  
Sacramento, California**



**PROPOSITION 218:  
RIGHT TO VOTE ON TAXES ACT**

Proposition 218 states that it shall be known as the *Right to Vote on Taxes Act* and contains the following findings and declarations:

*The People of the State of California hereby find and declare that Proposition 13 was intended to provide effective tax relief and to require voter approval of tax increases. However, local governments have subjected taxpayers to excessive tax, assessment, fee and charge increases that not only frustrate the purposes of voter approval for tax increases, but also threaten the economic security of all Californians and the California economy itself. This measure protects taxpayers by limiting the methods by which local governments exact revenue from taxpayers without their consent.*

Proposition 218 adds Article XIII C and Article XIII D to the California Constitution. Article XIII C provides voter approval for local tax levies and Article XIII D imposes assessment and property related fee reform.

The following pages provide a section by section review Proposition 218's provisions and intent as well as a discussion of current law.



SECTIONS 1 & 2:  
TITLE AND FINDINGS

I. Background and Existing Law. A *tax* is an involuntary charge against an individual or landowner which pays for public services and facilities regardless of the taxpayer's benefit. A special tax is used for a specific purpose; a general tax has no restrictions on its use. A *benefit assessment* is an involuntary charge imposed on a property owner to pay for a local public improvement or service that directly benefits the assessed property. A *fee or charge* is a voluntary charge imposed on a person or a property owner to pay for a local public service that directly benefits the payer.

II. This Section. Sections 1 states the initiative's name as the Right to Vote on Taxes Act.

Section 2 provides findings and declarations that local governments have imposed excessive taxes, assessments, and fees and charges that threatened the California economy and the economic security of the state's citizens. The findings and declarations also contain a statement that the Right to Vote on Taxes Act protects taxpayers by limiting the methods by which local governments exact revenue from taxpayers without their consent.

III. Comments.

1. Representative vs. direct democracy. Proposition 218 intends to limit the ability of local government to exact revenue from taxpayers without taxpayers' approval. The initiative's sponsors want to continue the tax revolt that began with the passage of Proposition 13 in 1978. Proposition 13 succeeded by capping the tax rate, rolling back property valuations, and limiting reassessments. Cities, counties, schools, and special districts turned to other revenue sources that affect property owners. Because Proposition 13 did not limit benefit assessments and fees, local officials shifted to those devices to raise more money.

The initiative's sponsors want to continue the trend started by Proposition 13's 2/3 voter requirement for special taxes and furthered by Proposition 62 (1986), an initiative which required voters to approve local general tax increases. Specifically, the initiative's proponents want the taxpayers — not the politicians — to have ultimate control over most local revenue raising.

Opponents of the initiative want to preserve the ability of local *representative* government to balance a community's competing demands. They don't want to undermine local representative government with the direct democracy embodied in Proposition 218.



**SECTION 3:**  
**DEFINITIONS; TAX LIMITATION; INITIATIVE POWERS**

**I. Background and Existing Law.** The California Constitution and state statutes delineate many types of local governments including cities, counties, a city and county, special districts, redevelopment agencies, school districts, community college districts, and others. State law provides several definitions of "special district," including a state agency created to perform governmental and proprietary functions at the local level [Government Code §16271(d)].

The California Constitution specifically designates charter cities and counties as local government entities with special constitutional powers [Art. XI, §3,4,5]. Charter cities use the constitutions "municipal affairs" doctrine to exert control over local revenue-raising.

**II. This Section.** Section 3 of Proposition 218 has three components:

**A. Definitions.** Section 3 (1) defines "local government," "special district," "special tax," and "general tax" for the purpose of Article XIII C. The California Constitution, state statutes, and case law provide definitions of "local governments," "special taxes," and "general taxes." The initiative conforms its definitions to case law, Proposition 62, and some parts of the Government Code.

**B. Tax Limitation.** Section 3 (2) deems local taxes to be either special or general taxes. The initiative prohibits any *special* purpose agencies from imposing *general* taxes. The measure also prohibits a local agency from imposing, extending, or increasing a general tax without majority voter approval. The measure also prohibits the imposition on non-voter approved general taxes imposed on or after January 1, 1995 unless the tax is confirmed by majority voter approval within two years. The initiative provides that local tax levies that don't exceed the maximum approved rate aren't a tax increase.

**C. Initiative Power.** Section 3 (3) provides that the initiative power applies to all local agency taxes, assessments, and fees and charges and states that the Constitutions existing provisions regarding direct democracy (e.g. prohibition against referenda on tax levies, signature requirements) cannot limit the initiative power with respect to reducing or repealing these revenue sources. The initiative also prohibits the Legislature and local governments (including charter entities) from imposing a higher signature requirement for reducing or repealing these revenue sources than the signature requirement for statewide statutory initiative.

**III. Comments.**

1. **What's in a name?** The purpose of Proposition 218's definition of local government is to require all local agencies, including charter cities, to comply with the initiative's revenue restrictions and voter approval mechanisms. In addition, after Proposition 13 (1978) allowed certain local agencies to impose "special taxes" with 2/3 voter approval,



the courts determined that a special tax was a tax levied to fund a specific governmental project or program and that a general tax was a tax levied for a general purpose [*City and County of San Francisco v. Farrell*, 1982]. Proposition 62 (1986) also defined special taxes as those imposed for a specific purpose and general taxes as those imposed for a general purpose [Government Code §53721]. The purpose of *Proposition 218's* special and general tax descriptions is to provide a clear, constitutional definition of special and general taxes.

2. More clarification. In tandem with its constitutional definitions of special and general tax, this section of *Proposition 218* requires local taxes to be deemed either special or general taxes. This section of the initiative also ensure that new general tax levies receive majority voter approval, and that non-voter approved general tax levies occurring cease unless they are confirmed by a majority of voters within two years. The initiative also clarifies that local agencies who levy taxes that don't exceed a previously approved rate are not "increasing" the tax.

3. Promoting direct democracy. Article II of the California Constitution prohibits referenda on local tax levies. Proposition 13 (1978), a constitutional initiative, required local agencies to obtain 2/3 voter approval before imposing a special tax. In 1986, Proposition 62, a statutory initiative, required local agencies to obtain majority voter approval before imposing general taxes. In 1991, the courts declared Proposition 62's statutory voter approval requirements an unconstitutional referendum on a tax [*Woodlake v. Logan*, 1991]. In 1995, the California Supreme Court overturned the 1991 Woodlake decision and declared Proposition 62 constitutional [*Santa Clara County Local Transportation Authority v. Guardino*, 1995]. In 1995, the Supreme Court also declared that voters could pass local initiatives to repeal existing taxes and prohibit future tax levies [*Rossi v. Brown*, 1995].

*Proposition 218* clarifies that the Constitution's prohibition on tax referenda does not impair the ability of local voters to use the initiative power to repeal or reduce a tax, assessment, fee or charge. The measure's initiative provisions are consistent with court rulings in the *Guardino* and *Rossi* cases. However, whereas the Court's decision in *Rossi* noted that the tax in question didn't affect the current year's budget or cause a deficit, *Proposition 218* permits local initiatives affecting tax levies under any circumstances.

4. Initiative signature requirements. *Proposition 218* codifies the *Rossi* decision by clarifying local voters' rights to pass initiatives to repeal tax measures. To ensure that neither the Legislature nor charter cities thwart the initiative's intent by raising the number of signatures required to place an initiative on the ballot. *Proposition 218* constitutionally prevents the Legislature and local agencies from imposing local signature requirements that exceed the requirement for statewide statutory initiatives (5% of the state's voters who voted in the last gubernatorial election).

5. Initiatives and debt. *Proposition 218* allows voters to use the initiative process to reduce or eliminate existing taxes, assessments, and fees and charges. If the revenues from these sources are paying for ongoing activities, the local agencies can just stop the activities, but what if a local agency is using this revenue for debt repayment? The United State Constitution protects against the impairment of contracts, so existing debt contracts cannot be violated by *Proposition 218* or local initiatives. In the future,



however, how will local agencies and potential investors be able to bond against uncertain revenue streams? If a local initiative halts the flow of local revenue after an improvement is constructed, how will the local agency prevent a default on debt. Alternately, will the U.S. Constitution prevent local initiatives under Proposition 218 if a local agency has issued debt?

6. Promises to pay. While local special, general, and assessment bonds are considered "debt," local agencies also use other financing tools such as lease-purchase agreements and certificates of participation. These financing tools rely on an agency's promise to pay a specified amount in a specified time period. Local agencies also enter into other long-term agreements, such as labor contracts, that lock-in payments over a set period of time. *Proposition 218* allows local voters to halt tax, assessment, fee and charge revenues at any time. Because the initiative will lead to less fiscal certainty by local agencies, will Proposition 218 reduce or eliminate agencies' ability to use these and other financing tools? Will proposition 218 affect labor contracts or other agreements?

7. Inconsistent terms. Proposition 218 requires voter approval of local tax levies, but the initiative uses different terms to describe the required levels of voter approval. For example, the initiative requires "a majority vote of the voters voting at an election" to approve non-voter approved general taxes imposed after January 1995. But the measure requires a "majority vote" of the electorate to approve a new, increased, or extended general tax. Does the "majority vote" requirement mean that more than 50% of the registered voters are needed to approve the tax, regardless of the number of voters who actually turn out to vote (a number that is usually far less than 50%)? When the courts have reviewed this question before, they've determined that "majority vote" means a majority of those who vote. But since Proposition 218 uses two different standards in the same initiative, will the courts assume that the discrepancies are intentional?



**SECTION 4 (1-4):**  
**ASSESSMENTS**

**I. Background and Existing Law.** State law provides over 30 benefit assessment laws, each delineating the agencies authorized to use the act, the types of facilities and services that can be provided, and the procedures for imposing the assessments. Charter cities, using their constitutional "municipal affairs" doctrine, impose assessments according to local rules, as long as they comply with constitutional and statutory notice and hearing requirements.

Unlike the property tax, a benefit assessment cannot exceed the cost of the improvement or service. Local officials cannot levy a benefit assessment against property that does not benefit. There is no constitutional requirement for voter approval of assessments, but local agencies (including charter cities) must provide property owners with due process: written notice, a public hearing, and the chance to protest. In most cases, local officials must abandon assessment proposals if property owners generate a majority protest; some assessments require local elections if an assessment plan generates a certain level of protest.

**II. This Section.** Section 4 of Proposition 218 has six components:

**A. Non-applicability.** Section 4 (1) of Proposition 218 applies to all assessments, fees and charges imposed pursuant to statute or local charter. The section does not grant local agencies new authority to impose a tax, assessment, or fee or charge, affect laws relating to fees or charges imposed as a condition of development, or affect laws relating to timber yield taxes.

**B. Definitions.** Section 4 (2) of Proposition 218 defines the terms "agency," "assessment," "capital cost," "district," "fee or charge," "maintenance and operation expenses," "property ownership," and "special benefit."

**C. Tax, Assessment, and Fee and Charge Limits.** Section 4 (3) of Proposition 218 prohibits agencies from imposing a tax, assessment, fee or charge on property or upon a person as an incident of property ownership except:

- \* The ad valorem property tax imposed pursuant to Article XIII and XIII A.
- \* A special tax that received a 2/3 vote pursuant to Article XIII A, Section 4.
- \* Assessments as provided by the initiative.
- \* Fees or charges for property services as provided by the initiative.

**D. Assessment Procedures.** *Calculation.* Section 4 (4) requires an agency that proposes to levy an assessment to identify the parcels that will receive a special benefit and on which the assessment will be imposed. A parcel's proportionate special benefit must be determined in relationship to the entire capital, maintenance and operation, or service costs. Only special benefits are assessable and agencies must separate special from general benefits. Assessments must be supported by a detailed report prepared by a registered professional engineer licensed in California. Assessments cannot exceed the parcel's reasonable costs of the proportional special benefit. Agencies cannot



exempt publicly-owned parcels from the assessment unless the owner can demonstrate that the parcel receives no special benefit.

*Notification.* The agency must calculate the proposed assessment for each parcel and notify the parcel's owner in writing by mail of: the total assessments, its reason and duration; the proposed levy on his or her parcel; the basis of the calculation; and the date, time, and location of a public hearing on the proposal. Each mailed notice must include a ballot and a summary of the balloting procedure and a statement about the existence of a majority protest that will result in the assessment's abandonment.

*Balloting and Protests.* The agency must conduct a public hearing not less than 45 days after mailing the notice to parcel owners. At the hearing, the agency must consider all protests to the assessment and tabulate ballots. The agency cannot impose the assessment if ballots submitted that oppose the assessment exceed the ballots in favor of the assessment. Ballots must be weighted according to the proportional financial obligation of the affected property.

*Legal Actions and Recourse.* The agency imposing an assessment has the legal burden to demonstrate the property receives a special benefit and that the assessment is proportional to the benefits conferred. Because only special benefits are assessable, electors within the assessment area that are not property owners are to be deemed to have been deprived the right to vote for an assessment. If a court determines otherwise, the assessment cannot be imposed without an additional 2/3 vote of the electors.

**E. Effective date.** Section 4 (5) of proposition 218 states that this section becomes effective the day after the election. Beginning July 1, 1997, all existing, new or increased assessment must comply with this section except for the following enumerated exemptions:

- \* Any assessment imposed to finance the capital or maintenance costs of sidewalks, streets, sewers, water, flood control, drainage systems, or vector control. Subsequent increases in these assessments, however, must comply with this section.
- \* Any assessment imposed pursuant to a petition signed by all the affected property owners at the time of imposition. Subsequent increases, however, must comply with this section.
- \* Any assessment the proceeds of which are used to pay bonded debt for which failure to pay would violate the state or federal constitution.
- \* Any assessment which previously received majority voter approval. Subsequent increases, however, must comply with this section.



### III. Comments.

1. Charter cities too. State law provides over 30 assessment acts and the California Constitution allows charter cities to impose assessments according to local procedures. All local agencies must provide public notice and hearings on assessment proposals, and most acts require the local agency to abandon assessment plans if a majority protest exists. Proposition 218 provides new procedures for all agencies to follow when imposing assessments, including charter cities. Under the initiative's terms, all local agencies must follow these uniform procedures when imposing an assessment.

2. More information. Current law requires local agencies to mail notice to property owners who would be subject to an assessment, unless the assessments are agency-wide or are for operation and maintenance purposes and affect 50,000 parcels or more. The laws require local agencies to hire an engineer to describe the assessment's proposed boundaries and improvements or services, and identify the per parcel assessment. *Proposition 218* requires a more detailed engineer's report and an explicit description of what benefits accrue specially to property owners versus community wide. Moreover, the initiative explicitly prohibits a local agency from imposing assessments that exceed the reasonable costs of the proportional special benefit. Finally, the initiative requires that all property owners receive a mailed notice of the proposed assessment and public hearing, regardless of the number of parcels included in the plan.

3. Public and private. Under current law, local agencies assess properties that directly benefit from the proposed improvement or service. In some cases, local agencies have exempted public property from the assessments, thereby requiring other parcel owners to pay more to make up the difference. *Proposition 218* prohibits an agency from exempting publicly owned land, or land used by a public agency, from an assessment unless the agency imposing the assessment demonstrated "by clear and convincing evidence" that the parcels will not benefit. The Committee may wish to consider why the initiative doesn't apply uniform policies to all parcels of land. Should all private parcels be included in an assessment unless the agency imposing the assessment can prove that the private parcel doesn't benefit?

4. Ballots vs. protests. Under current law, local agencies hold a public hearing on assessment proposals and count protests. If property owners generate a majority protest against the assessment plan, the local agency must abandon the assessment. Different assessment acts calculate majority protest in different ways. Under the Landscaping and Lighting Act, assessments can't proceed if landowners owning more than 50% of the assessable land protest the plan. Alternately, fire suppression assessment protests hinge on landowners who will pay more than half of the total assessment amount. In contrast, the Street Lighting Act of 1931 measures protests based on the number of landowners.

*Proposition 218* requires local agencies to mail a ballot to the owners of parcels that would be subject to a proposed assessment and count the submitted ballots at the hearing. If a majority of the ballots submitted oppose the assessment exceed those in favor, the agency cannot impose the assessment. Ballots tabulations are weighted by the proportional financial obligations of the affected property. By weighting the



ballots, the initiative gives more input to those property owners who'll pay more of the costs. But do weighted ballots violate the spirit of "one person, one vote?"

5. Burden of proof. State law traditionally assigns the burden of proof to property owners who challenge the validity of assessments. The government is presumed to have acted in the public interest. *Proposition 218* reverses that assumption for lawsuits relating to benefit assessments. Will the initiative's new presumption encourage litigation by property owners?

6. Back to the future. In addition to providing limits and procedures for future assessments, *Proposition 218* affects existing assessments too. Specifically, the initiative requires local agencies to obtain voter approval on non-voter approved assessments by July 1, 1997, with certain exemptions. Because state law does not currently require voter approval of local assessments, few local assessments have obtained voter approval. Proposition 218 will result in many new elections on existing assessments or in the elimination of many assessment levies.

7. First among equals. *Proposition 218's* election requirement for existing assessments does not apply to assessments that fund certain activities (sidewalks, streets, sewers, water, flood control, drainage or vector control. What makes these services and improvements special? Should the Proposition treat all assessments equally?

8. Protecting debt. *Proposition 218's* election requirement for existing assessments does not apply to assessments the proceeds from which are used to repay bonded debt the failure of which would violate the U. S. Constitution's contract impairment clause. While this provision should protect existing bonds, it may not protect those that are authorized but not sold, or other "non-debt" debt payments such as lease-purchase agreements and certificates of participation.



**SECTION 4 (5):  
PROPERTY RELATED FEES AND CHARGES**

**I. Background and Existing Law.** The California Constitution indirectly limits fees and charges to the reasonable cost of the service. State law requires local officials to hold noticed public hearings before they can levy or raise fees.

Local agencies' fees and charges do not require voter approval but they can't exceed the estimated reasonable cost of the facility or service being provided or else their proceeds are considered taxes (Government Code §50076). Local agencies levy and increase fees and charges by adopting an ordinance or a resolution at a public hearing.

Local officials follow several laws for enacting and increasing fees and charges. Examples of common local agencies fees include county sewer connection fees, utility districts' residential energy fees, city standby fees for utility availability, and school districts' developer fees. Before imposing or increasing fees, local agencies follow a variety of different procedures.

**II. This Section.** Section 4 (5) of Proposition 218 requires agencies to follow the following procedures for imposing or increasing a fee or charge:

**A. New and Increased Fees and Charges.** *Notification.* The agency must identify the affected parcels and calculate the fee or charge. The agency must notify parcel owners by mail of the proposed fee or charge, the basis of the fee or charge, the reasons for the fee or charge, and the date, time, and place of a public hearing on the proposal.

*Protest hearing.* The agency must conduct a public hearing on the proposed fee or charge not less than 45 days after mailing the notification. At the public hearing, the agency must consider any protests, and must abandon the proposal if written protests are presented by a majority of the owners of the identified parcels.

**B. Existing, New or Increased Fees or Charges.** This section also prohibits an agency from extending, imposing, or increasing a fee or charge unless it meets the following requirements:

- \* Fee or charge revenues don't exceed the funds required to provide the property related service.
- \* Fee or charge revenues aren't used for any purpose other than that for which the fee or charge was imposed.
- \* The fee or charge amount imposed on any parcel or person as an incident of property ownership can't exceed the proportional cost of the service attributable to the parcel.
- \* No fee or charge can be imposed for a service unless that service is actually used by, or immediately available to, the property owner. Fees based on



potential or future service use are prohibited. Standby charges must be classified as assessments and imposed pursuant to the initiative's assessment provisions.

\* No fee or charge can be imposed for general governmental services, including police, fire, ambulance, or library services where the service is available to the public at large in substantially the same manner as to property owners.

*Legal action.* In legal actions contesting a fee or charge's validity, the agency has the burden to demonstrate compliance with the initiative. In actions to determine whether a fee is imposed as an incident of property ownership, an agency's reliance on a parcel map may be considered a significant factor.

**C. Voter approval for New or Increased Fees and Charges.** *Voter approval.* An agency cannot impose or increase a property related fee or charge unless and until the fee or charge is approved by a majority vote of the affected property owners or by a two-thirds vote of the voters residing in the affected area. No voter approval is necessary for fees or charges for sewer, water, and refuse collection services. the election must occur at least 45 days after the public hearing.

*Effective date.* Beginning July 1, 1997, all fees or charges must comply with the initiatives requirements for fees and charges.

### **III. Comments.**

1. **Notice and protest.** Local agencies usually adopt fees and charges at a noticed public hearing. Local agencies usually provide generic notification of the proposal by publishing a resolution in the newspaper. *Proposition 218* requires local officials to mail notices outlining proposed property related fee impositions and increases to affected parcel owners. The notice must include detailed, specific information about that parcel's proposed new fee or charge.
2. **Proportional service costs.** *Proposition 218* limits new, existing, and increased property related fees and charges to the "proportional cost of the service attributable to that parcel." Will the initiative's specificity require local agencies to determine the exact cost of its services to each parcel. For example, will Proposition 218 require local agencies to impose higher water fees on parcels located further from the local water source since additional pipes were laid to accommodate service to more remote properties?
3. **Fees for general services.** State law allows local agencies to impose charges on parcels for the creation and maintenance of parks, refuse collection, ambulance services, animal control, and other activities. *Proposition 218* prohibits local agencies from imposing fees or charges on property for general services available in the same manner to the public at large. What effect will this limitation have on local agencies?
4. **Burden of proof.** State law traditionally assigns the burden of proof to property owners who challenge the validity of fees and charges. The government is presumed to



have acted in the public interest. *Proposition 218* reverses that assumption for lawsuits relating to new and increased fees and charges. Will the initiative's new presumption encourage litigation by property owners?

5. Voter-approval. Before local officials can approve or increase a fee or charge, *Proposition 218* requires the agency to get the approval of either a majority vote of the affected property owners or a 2/3 vote of the electorate residing in the affected area. In addition, the bill states that "all fees or charges must comply with this section" beginning July 1, 1997. Does that sentence mean that all existing fees must obtain voter approval? What if the fees were pledged to debt or already received voter approval? Alternately, does this sentence mean that existing fees and charges must comply with the initiative's provisions regarding the calculation of the fee or charge and the use of its proceeds?

6. Standby and availability charges. Local agencies which are authorized to provide water and sewer services can levy standby and availability charges or assessments for those services. Standby and availability charges are levied against developments which are connected, or can be connected to local water and sewer infrastructure. Local officials initiate standby charges by adopting a detailed resolution, advertising in the newspaper, and mailing notice to property owners proposed to be subject to the fee. *Proposition 218* prohibits the imposition of fees for potential or future service usage. The initiative classifies standby fees as assessments, not fees, and requires local agencies to use the measure's assessment provisions to impose standby charges.

7. Developer fees. Cities, counties, and school districts may impose conditions on development within their jurisdiction. Developer fees are not subject to voter approval, but they must bear a reasonable relationship to the public needs created by the proposed development. In adopting developer fees, local agencies follow a process similar to other fees: they hold a public hearing where interested parties may be heard. Local officials notice the hearing by publishing the notice in a newspaper at least 10 days before the hearing. In addition, local agencies planning to adopt, change, or levy developer fees must make other findings and disclosure. State law provides limits on the amounts of certain developer fees. Section 4 (1) of *Proposition 218* states that the initiative's provisions do not affect laws relating to fees or charges imposed as a condition of development,

8. New categories. *Proposition 218* applies to existing, new, and increased fees and charges, but Section 4 (2) of *Proposition 218* states that fees and charges for electrical or gas service are not considered "charges" or "fees" imposed as an incident of property ownership under the initiative. Why are these fees treated differently than others, such as water fees, refuse fees, and others? And, if electrical and gas service charges are not considered "fees" or "charges" under the initiative, what are they?

9. Other options. By limiting the amount of property related fees, and imposing new terms on their imposition, will *Proposition 218* provide an incentive for local agencies to recoup costs through non-property related fees (e.g., dog and marriage licenses, late library return fees)? How much can local agencies raise non-property related fees before the courts deem the fees "taxes?"



**SECTION 5:**  
**LIBERAL CONSTRUCTION**

I. **This Section.** Section 5 of Proposition 218 Proposition instructs the courts, when in doubt, to interpret its provisions broadly in order to increase taxpayer consent and limit local government revenue.



SECTION 6:  
SEVERABILITY CLAUSE

I. This Section. Proposition 218's severance clause intends to protect the courts from declaring the entire initiative invalid or unconstitutional if the court strikes down one or several of its provisions.

II. Comments. It should be noted that although Proposition 218 contains a severability clause, a court might set it aside if one portion of the initiative, if found to be invalid, interacts with other portions of the measure.





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# PROPOSITION 218

## RIGHT TO VOTE ON TAXES ACT

**SECTION 1. TITLE.** This Act shall be known and may be cited as the Right to Vote on Taxes Act.

**SECTION 2. FINDINGS AND DECLARATIONS.** The People of the State of California hereby find and declare that Proposition 13 was intended to provide effective tax relief and to require voter approval of tax increases. However, local governments have subjected taxpayers to excessive tax, assessment, fee and charge increases that not only frustrate the purposes of voter approval for tax increases, but also threaten the economic security of all Californians and the California economy itself. This measure protects taxpayers by limiting the methods by which local governments exact revenue from taxpayers without their consent.

**SECTION 3. VOTER APPROVAL FOR LOCAL TAX LEVIES.** Article XIII C of the California Constitution is hereby added:

### SEC. 1. Definitions.

As used in this Article:

- (a) "General tax" means any tax imposed for general governmental purposes.
- (b) "Local government" means any county, city, city and county, including a charter city or county, any special district, or any other local or regional governmental entity.
- (c) "Special District" means an agency of the state, formed pursuant to general law or special act, for the local performance of governmental or proprietary functions with limited geographic boundaries including, but not limited to, school districts and redevelopment agencies.
- (d) "Special tax" means any tax imposed for specific purposes including taxes imposed for specific purposes which are placed into a general fund.

### SEC. 2. Local Government Tax Limitation.

Notwithstanding any other provision of this Constitution:

- (a) All taxes imposed by any local government shall be deemed to be either general taxes or special taxes. Special purpose districts or agencies, including school districts, shall have no power to levy general taxes.



- (b) No local government may impose, extend or increase any general tax unless and until such tax is submitted to the electorate and approved by a majority vote. A general tax shall not be deemed to have been increased if it is imposed at a rate not higher than the maximum rate so approved. The election required by this subdivision shall be consolidated with a regularly scheduled general election for members of the governing body of the local government except in cases of emergency declared by a unanimous vote of the governing body.
- (c) Any general tax imposed, extended or increased, without voter approval, by any local government on or after January 1, 1995, and prior to the effective date of this Article, shall continue to be imposed only if approved by a majority vote of the voters voting in an election on the issue of the imposition, which election shall be held within two years of the effective date of this Article and in compliance with subdivision (b) of this section.
- (d) No local government may impose, extend or increase any special tax unless and until such tax is submitted to the electorate and approved by a two-thirds vote. A special tax shall not be deemed to have been increased if it is imposed at a rate not higher than the maximum rate so approved.

**SEC. 3. Initiative Power For Local Taxes, Assessments, Fees and Charges.**

Notwithstanding any other provision of this Constitution, including, but not limited to, Article II, Sections 8 and 9, the initiative power shall not be prohibited or otherwise limited in matters of reducing or repealing any local tax, assessment, fee or charge. The power of initiative to affect local taxes, assessments, fees and charges shall be applicable to all local governments and neither the legislature nor any local government charter shall impose a signature requirement higher than that applicable to statewide statutory initiatives.

**SECTION 4. ASSESSMENT AND PROPERTY RELATED FEE REFORM.**

Article XIIIID of the California Constitution is hereby added:

**SEC. 1. Application.**

Notwithstanding any other provision of law, the provisions of this Article shall apply to all assessments, fees and charges whether imposed pursuant to state



statute or local government charter authority. Nothing in this Article or Article XIII C shall be construed to:

- (a) provide any new authority to any agency to impose a tax, assessment, fee or charge;
- (b) affect existing laws relating to the imposition of fees or charges as a condition of property development; or
- (c) affect existing laws relating to the imposition of timber yield taxes.

## SEC. 2. Definitions.

As used in this article:

- (a) "Agency" means any local government as defined in Article XIII C, Section 1(b).
- (b) "Assessment" means any levy or charge upon real property by an agency for a special benefit conferred upon the real property. "Assessment" includes, but is not limited to, "special assessment," "benefit assessment," "maintenance assessment" and "special assessment tax."
- (c) "Capital cost" means the cost of acquisition, installation, construction, reconstruction or replacement of a permanent public improvement by an agency.
- (d) "District" means an area determined by an agency to contain all parcels which will receive a special benefit from a proposed public improvement or property-related service.
- (e) "Fee" or "charge" means any levy other than an ad valorem tax, a special tax or an assessment, imposed by an agency upon a parcel or upon a person as an incident of property ownership, including user fees or charges for a property related service.
- (f) "Maintenance and operation expenses" means the cost of rent, repair, replacement, rehabilitation, fuel, power, electrical current, care, and supervision necessary to properly operate and maintain a permanent public improvement.



- (g) "Property ownership" shall be deemed to include tenancies of real property where tenants are directly liable to pay the assessment, fee, or charge in question.
- (h) "Property-related service" means a public service having a direct relationship to property ownership.
- (i) "Special benefit" means a particular and distinct benefit over and above general benefits conferred on real property located in the district or to the public at large. General enhancement of property value does not constitute "special benefit."

**SEC. 3. Property Taxes, Assessments, Fees and Charges Limited.**

- (a) No tax, assessment, fee or charge shall be assessed by any agency upon any parcel of property or upon any person as an incident of property ownership except:
  - (1) The ad valorem property tax imposed pursuant to Article XIII and Article XIII A of this Constitution.
  - (2) Any special tax receiving a two-thirds vote pursuant to Article XIII A, Section 4 of this Constitution.
  - (3) Assessments as provided by this Article.
  - (4) Fees or charges for property related services as provided by this Article.
- (b) For purposes of this Article, fees for the provision of electrical or gas service shall not be deemed charges or fees imposed as an incident of property ownership.

**SEC. 4. Procedures and Requirements for All Assessments.**

- (a) An agency which proposes to levy an assessment shall identify all parcels which will have a special benefit conferred upon them and upon which an assessment will be imposed. The proportionate special benefit derived by each identified parcel shall be determined in relationship to the entirety of the capital cost of a public improvement or the maintenance and operation expenses of a public improvement or for the cost of the property related



service being provided. No assessment shall be imposed on any parcel which exceeds the reasonable cost of the proportional special benefit conferred on that parcel. Only special benefits are assessable, and an agency must separate the general benefits from the special benefits conferred on a parcel. Parcels within a district that are owned or used by any agency, the State of California or the United States shall not be exempt from assessment unless the agency can demonstrate by clear and convincing evidence that such publicly owned parcels in fact receive no special benefit.

- (b) All assessments must be supported by a detailed engineer's report prepared by a registered professional engineer certified by the State of California.
- (c) The amount of the proposed assessment for each identified parcel shall be calculated and the record owner of each parcel shall be given written notice by mail of the proposed assessment, the total amount thereof chargeable to the entire district, the amount chargeable to the owner's particular parcel, the duration of such payments, the reason for such assessment and the basis upon which the amount of the proposed assessment was calculated, together with the date, time, and location of a public hearing on the proposed assessment. Each notice shall also include, in a conspicuous place thereon, a summary of the procedures applicable to the completion, return and tabulation of the ballots required pursuant to subdivision (d), including a disclosure statement that the existence of a majority protest, as defined in subdivision (e), will result in the assessment not being imposed.
- (d) Each such notice mailed to owners of identified parcels within the district shall contain a ballot which includes the agency's address for receipt of any such ballot once completed by any owner receiving such notice whereby each such owner may indicate his or her name, reasonable identification of the parcel and support or opposition to the proposed assessment.
- (e) The agency shall conduct a public hearing upon the proposed assessment not less than 45 days after mailing the notice of the proposed assessment to record owners of each identified parcel. At the public hearing, the agency shall consider all protests against the proposed assessment and tabulate the ballots. The agency shall not impose an assessment if there is a majority



protest. A majority protest exists if, upon the conclusion of the hearing, ballots submitted in opposition to the assessment exceed the ballots submitted in favor of the assessment. In tabulating the ballots, the ballots shall be weighted according to the proportional financial obligation of the affected property.

- (f) In any legal action contesting the validity of any assessment, the burden shall be on the agency to demonstrate that the property or properties in question receive a special benefit over and above the benefits conferred on the public at large and that the amount of any contested assessment is proportional to, and no greater than, the benefits conferred on the property or properties in question.
- (g) Because only special benefits are assessable, electors residing within the district who do not own property within the district shall not be deemed under this Constitution to have been deprived of the right to vote for any assessment. If a court determines that the Constitution of the United States or other federal law requires otherwise, the assessment shall not be imposed unless approved by a two-thirds vote of the electorate in the district in addition to being approved by the property owners as required by Section 4(e).

#### SEC. 5. Effective Date

Pursuant to Article II, Section 10(a), the provisions of this Article shall become effective the day after the election unless otherwise provided. Beginning July 1, 1997, all existing, new or increased assessments shall comply with this Article. Notwithstanding the foregoing, the following assessments existing on the effective date of this Article shall be exempt from the procedures and approval process set forth in Section 4:

- (a) any assessment imposed exclusively to finance the capital costs or maintenance and operation expenses for sidewalks, streets, sewers, water, flood control, drainage systems or vector control. Subsequent increases in such assessments shall be subject to the procedures and approval process set forth in Section 4;
- (b) any assessment imposed pursuant to a petition signed by the persons owning all of the parcels subject to the assessment at the time the assessment is initially imposed. Subsequent increases in such assessments shall be subject to the procedures and approval process set forth in Section 4;



- (c) any assessment the proceeds of which are exclusively used to repay bonded indebtedness of which the failure to pay would violate the Contract Impairment Clause of the Constitution of the United States of America; or,
- (d) any assessment which previously received majority voter approval from the voters voting in an election on the issue of the assessment. Subsequent increases in such assessments shall be subject to the procedures and approval process set forth in Section 4.

**SEC. 6. Property Related Fees and Charges.**

- (a) **Procedures for New or Increased Fees and Charges.** An agency shall follow the procedures pursuant to this section in imposing or increasing any fee or charge as defined pursuant to this Article including, but not limited to, the following:
  - (1) The parcels upon which a fee or charge is proposed for imposition shall be identified. The amount of the fee or charge proposed to be imposed upon each parcel shall be calculated. The agency shall provide written notice by mail of the proposed fee or charge to the *record* owner of each identified parcel upon which the fee or charge is proposed for imposition, the amount of the fee or charge proposed to be imposed upon each, the basis upon which the amount of the proposed fee or charge was calculated, the reason for the fee or charge, together with the date, time, and location of a public hearing on the proposed fee or charge.
  - (2) The agency shall conduct a public hearing upon the proposed fee or charge not less than 45 days after mailing the notice of the proposed fee or charge to the record owners of each identified parcel upon which the fee or charge is proposed for imposition. At the public hearing, the agency shall consider all protests against the proposed fee or charge. If written protests against the proposed fee or charge are presented by a majority of owners of the identified parcels, the agency shall not impose the fee or charge.
- (b) **Requirements for Existing, New or Increased Fees and Charges.** A fee or charge shall not be extended, imposed or increased by any agency unless it meets all of the following requirements:



- (1) Revenues derived from the fee or charge shall not exceed the funds required to provide the property related service.
- (2) Revenues derived from the fee or charge shall not be used for any purpose other than that for which the fee or charge was imposed.
- (3) The amount of a fee or charge imposed upon any parcel or person as an incident of property ownership shall not exceed the proportional cost of the service attributable to the parcel.
- (4) No fee or charge may be imposed for a service unless that service is actually used by, or immediately available to, the owner of the property in question. Fees or charges based on potential or future use of a service are not permitted. Standby charges, whether characterized as charges or assessments, shall be classified as assessments and shall not be imposed without compliance with Section 4 of this Article.
- (5) No fee or charge may be imposed for general governmental services including, but not limited to, police, fire, ambulance or library services where the service is available to the public at large in substantially the same manner as it is to property owners.

Reliance by an agency on any parcel map including, but not limited to, an assessor's parcel map, may be considered a significant factor in determining whether a fee or charge is imposed as incident of property ownership for purposes of this Article. In any legal action contesting the validity of a fee or charge, the burden shall be on the agency to demonstrate compliance with this Article.

- (c) **Voter Approval for New or Increased Fees and Charges.** Except for fees or charges for sewer, water, and refuse collection services, no property related fee or charge shall be imposed or increased unless and until such fee or charge is submitted and approved by a majority vote of the property owners of the property subject to the fee or charge or, at the option of the agency, by a two-thirds vote of the electorate residing in the affected area. The election shall be conducted not less than 45 days after the public hearing. An agency may adopt procedures similar to those for increases in assessments in the conduct of elections under this subdivision.
- (d) Beginning July 1, 1997, all fees or charges shall comply with this Section.



**SECTION 5. LIBERAL CONSTRUCTION.** The provisions of this Act shall be liberally construed to effectuate its purposes of limiting local government revenue and enhancing taxpayer consent.

**SECTION 6. SEVERABILITY.** If any provision of this Act, or part thereof, is for any reason held to be invalid or unconstitutional, the remaining sections shall not be affected, but shall remain in full force and effect, and to this end the provisions of this Act are severable.





LEGISLATIVE INTENT SERVICE (800) 666-1917

# 218

## Voter Approval for Local Government Taxes. Limitations on Fees, Assessments, and Charges. Initiative Constitutional Amendment.

### Argument in Favor of Proposition 218

**VOTE YES ON PROPOSITION 218. IT WILL GIVE YOU THE RIGHT TO VOTE ON TAX INCREASES!**

Proposition 218 guarantees your right to vote on local tax increases—even when they are called something else, like “assessments” or “fees” and imposed on homeowners.

Proposition 218 guarantees your right to vote on taxes imposed on your water, gas, electric, and telephone bills.

Proposition 218 does NOT prevent government from raising and spending money for vital services like police, fire and education. If politicians want to raise taxes they need only convince local voters that new taxes are really needed.

Proposition 218 simply extends the long standing constitutional protection against politicians imposing tax increases without voter approval.

After voters passed Proposition 13, politicians created a loophole in the law that allows them to raise taxes without voter approval by calling taxes “assessments” and “fees.”

Once this loophole was created, one lawyer working with politicians wrote, assessments “are now limited only by the limits of human imagination.”

How imaginative can the politicians be with assessments? Here are a few examples among thousands:

- A view tax in Southern California—the better the view of the ocean you have the more you pay.
- In Los Angeles, a proposal for assessments for a \$2-million scoreboard and a \$6-million equestrian center to be paid for by property owners.
- In Northern California, taxpayers 27 miles away from a park are assessed because their property supposedly benefits from that park.
- In the Central Valley, homeowners are assessed to refurbish a college football field.

**TAXPAYERS HAVE NO RIGHT TO VOTE ON THESE TAX INCREASES AND OTHERS LIKE THEM UNLESS PROPOSITION 218 PASSES!**

Proposition 218 will significantly tighten the kind of benefit assessments that can be levied.

Here are examples of why fees and assessments and other nonvoted taxes are so unfair:

- The poor pay the same assessments as the rich. An elderly widow pays exactly the same on her modest home as a tycoon with a mansion.
- There are now over 5,000 local districts which can impose fees and assessments without the consent of local voters. Special districts have increased assessments by over 2400% over 15 years. Likewise, cities have increased utility taxes 415% and raised benefit assessments 976%, a ten-fold increase.

Non-voted taxes on electricity, gas, water, and telephone services hit renters and homeowners hard.

And, retired homeowners get hit doubly hard!

To confirm the impact of fees and assessments on you, look at your property tax bill. You will see a growing list of assessments imposed without voter approval. The list will grow even longer unless Proposition 218 passes.

Proposition 218 will allow you and your neighbors—not politicians—to decide how high your taxes will be. It will allow those who pay assessments to decide if what they are being asked to pay for is worth the cost.

**FOR THE RIGHT TO VOTE ON TAXES, VOTE YES ON PROPOSITION 218.**

**JOEL FOX**

*President, Howard Jarvis Taxpayers Association*

**JIM CONRAN**

*President, Consumers First*

**RICHARD GANN**

*President, Paul Gann's Citizens Committee*

### Rebuttal to Argument in Favor of Proposition 218

**PROPOSITION 218 IS NO FALSE ALARM . . . IT HURTS**

Propositions can deceive, so carefully judge who you believe.

Beware of wild claims for new “constitutional rights” and people who pretend concern about widows and orphans.

Read Proposition 218 yourself and see how large corporations, big landowners and foreign interests gain more voting power than YOU.

Promoters say you get “tax reform” . . . you may actually get serious cutbacks in local service and FEWER VOTING RIGHTS for millions of California citizens.

Sometimes we hear hysterical warnings about bad things that never occur . . . Proposition 218 is a REAL threat. On Proposition 218 consider the harm to EXISTING local services, not vague future threats:

- May reduce CURRENT funding for police, fire and emergency medical programs across California.
- Worsens SCHOOL CROWDING by making public schools pay NEW TAXES, cutting classroom teaching.
- Could eliminate LifeLine utility support for SENIORS and disabled citizens.

**CONSTITUTIONAL POWER SHIFT.**

Proposition 218 etches this into the state Constitution:

- Blocks 3 million Californians from voting on tax assessments. The struggling young couple renting a small home, WILL HAVE NO VOTE on the assessments imposed on the house they rent.
- Grants special land interests more voting power than average homeowners. The “elderly widow” promoters cite will be banned from voting if she is a renter, or her voting power dwarfed by large property owners.
- Gives non-citizens voting rights on your community taxes. Proposition 218 is a great deal for wealthy special interests. But it's a bad deal for the average taxpayer, homeowner and renter.

**HOWARD OWENS**

*Congress of California Seniors*

**LOIS TINSON**

*President, California Teachers Association*

**RON SNIDER**

*President, California Association of Highway Patrolmen*

# Voter Approval for Local Government Taxes. Limitations on Fees, Assessments, and Charges. Initiative Constitutional Amendment.

218

## Argument Against Proposition 218

### PROPOSITION 218 DILUTES VOTING RIGHTS, HURTS LOCAL SERVICES

In the disguise of tax reform, Proposition 218's Constitutional Amendment **REDUCES YOUR VOTING POWER** and gives huge voting power to corporations, foreign interests and wealthy land owners.

It cuts police, fire, library, park, senior, and disabled services and diverts funds needed for classroom-size reductions.

Read Proposition 218 carefully—it's a wolf, not a lamb!

### YOU LOSE RIGHTS; CORPORATIONS, DEVELOPERS, NON-CITIZENS GAIN VOTING POWER

Section 4(e) of Proposition 218 changes the Constitution to give corporations, wealthy landowners and developers **MORE VOTING POWER THAN HOMEOWNERS**. It lets large outside interests control community taxes—against the will of local citizens.

**EXAMPLE:** An oil company owns 1000 acres, you own one acre; the oil corporation gets 1000 times more voting power than you.

While Prop. 218 gives voting power to outside interests, Section 4(g) denies voting rights to more than 3,000,000 California renters.

Reducing American citizens' Constitutional rights, it grants voting rights to corporations and absentee landowners—even foreign citizens.

**EXAMPLE:** A shopping center owned by a foreign citizen is worth 100 times as much as your home; that person gets 100 times more voting power than you!

Every citizen should have the right to vote if a community is voting on local assessments for police, fire, emergency medical and library programs. It's unfair to give voting power to non-citizens, big landowners and developers, yet deny it to millions of Californians.

### MAY CUT LOCAL POLICE, FIRE PROTECTION

Section 6(b)(5) eliminates vital funding sources for local police, fire, emergency medical and library services.

Proposition 218 goes too far—may forbid emergency assessments for earthquakes, floods and fires.

Don't handcuff police and firefighters. The California Police Chiefs Association, Fire Chiefs Association and California Professional Firefighters ask you to vote NO.

The impartial Legislative Analyst's report shows how Proposition 218 could impede LifeLine support for the elderly and disabled. It prohibits seniors and disabled from receiving needed utility services unless they pay all costs themselves.

Proposition 218 cuts more than \$100 million from local services, yet wastes tens of millions each year by changing the Constitution to require 5,000 local elections even if local citizens don't want an election . . . even if the election cost is more than the potential revenue.

### MAKES SCHOOL CROWDING WORSE

California teachers oppose Proposition 218 because Section 4(a) imposes a new tax on public school property, diverting millions from classroom programs to pay for non-school expenses.

California already has the most crowded classrooms in America (dead last of 50 states). Proposition 218 makes school crowding worse.

### SHELL GAME

This measure takes a few good ideas, but twists and perverts them. It cripples the best local services and puts more power into the hands of special interests and non-citizens.

Proposition 218 goes too far. Assessment laws DO need improvement, but Proposition 218 is the wrong way to do it. It does more harm than good, restricting our voting rights, hurting schools, seniors and public safety programs.

Please vote NO on Proposition 218.

### FRAN PACKARD

*President, League of Women Voters of California*

### CHIEF RON LOWENBERG

*President, California Police Chiefs' Association*

### CHIEF JEFF BOWMAN

*President, California Fire Chiefs' Association*

## Rebuttal to Argument Against Proposition 218

Arguments against Proposition 218 are misleading and designed to confuse voters. In truth:

1. Proposition 218 expands your voting rights. It **CONSTITUTIONALLY GUARANTEES** your right to vote on taxes.
2. Under Proposition 218, only California registered voters, including renters, can vote in tax elections. Corporations and foreigners get no new rights.
3. Current law already allows property owners, including nonresidents, to act on property assessments based on the assessment amount they pay. This is **NOT** created by Proposition 218.
4. "Lifeline" rates for elderly and disabled for telephone, gas, and electric services are **NOT** affected.
5. Proposition 218 allows voter approved taxes for police, fire, education.

Proposition 218 simply gives taxpayers the right to vote on taxes and stops politicians' end-runs around Proposition 13.

That's why ordinary taxpayers, seniors, parents, homeowners, renters, consumer advocates, support Proposition 218.

Under Proposition 218, officials must convince taxpayers that tax increases are justified. Politicians and special interest groups don't like this idea. But they can't win by saying "taxpayers should not vote on taxes," so they use misleading statements to confuse a simple question.

That question: **DO YOU BELIEVE TAXPAYERS SHOULD HAVE THE RIGHT TO VOTE ON TAXES?** If you answered "yes", **VOTE YES ON PROPOSITION 218.**

Read the nonpartisan, independent **SUMMARY** by the Attorney General, which begins "**VOTER APPROVAL FOR LOCAL GOVERNMENT TAXES.**" And, by all means read your property tax bill, due out now. Then you'll know the truth.

**FOR THE RIGHT TO VOTE ON TAXES, VOTE YES ON PROPOSITION 218!**

### CAROL ROSS EVANS

*Vice-President, California Taxpayers Association*

### FELICIA ELKINSON

*Past President, Council of Sacramento Senior Organizations*

### LEE PHELPS

*Founder, Alliance of California Taxpayers and Involved Voters (ACTIV)*



## Proposition Number 218

# Voter Approval for Local Government Taxes. Limitations on Fees, Assessments, and Charges. Initiative Constitutional Amendment

### Overview

Local governments provide many services to people and businesses in their communities. To pay for these services, local governments raise revenues by imposing fees, assessments, and taxes. This constitutional measure would make it more difficult for local governments to raise these revenues. As a result, this measure would:

Reduce the amount of fees, assessments, and taxes that individuals and businesses pay.

Decrease spending for local public services.

### Proposal

This measure would constrain local governments' ability to impose fees, assessments, and taxes. The measure would apply to all cities, counties, special districts, redevelopment agencies, and school districts in California.

### Fees

**Current Practice.** Local governments charge fees to pay for many services to their residents. Some of these fees pay for services to property, such as garbage collection and sewer service. Fees are also called "charges."

Local governments often establish several fee amounts for a service, each based on the approximate cost of providing the service to different types of properties (such as commercial, industrial, or residential property). Local governments usually send monthly bills to property owners to collect these fees, although some fees are placed on the property tax bill. Local governments generally hold public hearings before creating or increasing such a fee, but do not hold elections on fees.

**Proposed Requirements for Property-Related Fees.** This measure would restrict local governments' ability to charge "property-related" fees. (Fees for water, sewer, and refuse collection service probably meet the measure's definition of a property-related fee. Gas and electric fees and fees charged to land developers are specifically exempted.)

Specifically, the measure states that *all* local property-related fees must comply by July 1, 1997 with the following restrictions:

No property owner's fee may be more than the cost to provide service to that property owner's land.

No fee may be charged for fire, police, ambulance, library service, or any other service widely available to the



public.

No fee revenue may be used for any purpose other than providing the property-related service.

Fees may only be charged for services immediately available to property owners.

In addition, the measure specifies that before adopting a *new* property-related fee (or increasing an *existing* one), local governments must: mail information about the fee to every property owner, reject the fee if a majority of the property owners protest in writing, and hold an election on the fee (unless it is for water, sewer, or refuse collection service).

Taken together, these fee restrictions would require local governments to reduce or eliminate some existing fees. Unless local governments increased taxes to replace these lost fee revenues, spending for local public services likely would be decreased. The measure's requirements would also expand local governments' administrative workload. For example, local governments would have to adjust many property-related fees, potentially (1) setting them on a block-by-block or parcel-by-parcel basis and (2) ending programs that allow low-income people to pay reduced property-related fees. Local governments would also have to mail information to every property owner and hold elections.

## Assessments

**Current Practice.** Local governments charge assessments to pay for projects and services that benefit specific properties. For example, home owners may pay assessments for sidewalks, streets, lighting, or recreation programs in their neighborhood. Assessments are also called "benefit assessments," "special assessments," "maintenance assessments," and similar terms. Local governments typically place assessment charges on the property tax bill.

To create an assessment, state laws require local governments to determine which properties would benefit from a project or service, notify the owners, and set assessment amounts based on the approximate benefit property owners would receive. Often, the rest of the community or region also receives some general benefit from the project or service, but does not pay a share of cost. Typical assessments that provide general benefits include fire, park, ambulance, and mosquito control assessments. State laws generally require local governments to reject a proposed assessment if more than 50 percent of the property owners protest in writing.

Some local governments also levy "standby charges," which are similar to assessments. Standby charges commonly finance water and sewer service expansions to new households and businesses. (The measure treats standby charges assessments.)

**Proposed Requirements for Assessments.** This measure would place extensive requirements on local governments charging assessments. Specifically, the measure requires all *new* or *increased* assessments—and some *existing* assessments—to meet four conditions.

First, local governments must estimate the amount of "special benefit" landowners receive—or would receive—from a project or service. Special benefit is defined as a particular benefit to land and buildings, not a general benefit to the public at large or a general increase in property values. If a project provides both special benefits *and* general benefits, a local government may charge land owners for only for the cost of providing the special benefit. Local government must use general revenues (such as taxes) to pay the remaining portion of the project or service's cost. In some cases, local government may not have sufficient revenues to pay this cost, or may choose not to pay it. In these cases, a project or service would not be provided.

Second, local governments must ensure that no property owner's assessment is greater than the cost to provide the improvement or service to the owner's property. This provision would require local governments to examine assessment amounts in detail, potentially setting them on a parcel-by-parcel or block-by-block basis.

Third, local governments must charge schools and other public agencies their share of assessments. Currently, public agencies generally do not pay assessments.

Finally, local governments must hold a mail-in election for each assessment. Only property owners and any renters

responsible for paying assessments would be eligible to vote. Ballots cast in these elections would be weighted based on the amount of the assessment the property owner or renter would pay. For example, if a business owner would pay twice as much assessment as a homeowner, the business owner's vote would "count" twice as much as the homeowner's vote.

Figure 1 summarizes the existing assessments that would be exempt from the measure's requirements. We estimate that more than half of all existing assessments would qualify for an exemption. All other existing assessments must meet the measure's requirements--including the voter approval requirement--by July 1, 1997.

## Figure 1

### Existing Assessments Exempt from the Measures's Requirements

Assessments previously approved by voters--or by all property owners at the time the assessment was created.

Assessments where all the funds are used to repay bond obligations.

Assessments where all the funds are used to pay for sidewalks, streets, sewers, water, flood control, drainage systems or, "vector control" (such as mosquito control).

## Taxes

**Current Practice.** Local governments typically use taxes to pay for general government programs, such as police and fire services. Taxes are "general" if their revenues can be used to pay for many government programs, rather than being reserved for specific programs. Proposition 62--a statutory measure approved by the voters in 1986--requires new local general taxes to be approved by a majority vote of the people. Currently, there are lawsuits pending as to whether this provision applies to cities that have adopted a local charter, such as Los Angeles, Long Beach, Sacramento, San Jose, and many others.

**Proposed Requirements for Taxes.** The measure states that all *future* local general taxes, including those in cities with charters, must be approved by a majority vote of the people. The measure also requires *existing* local general taxes established after December 31, 1994 without a vote of the people to be placed before the voters within two years.

## Other Provisions

**Burden of Proof.** Currently, the courts allow local governments significant flexibility in determining fee and assessment amounts. In lawsuits challenging property fees and assessments, the taxpayer generally has the "burden of proof" to show that they are not legal. This measure shifts the burden of proof in these lawsuits to local government. As a result, it would be easier for taxpayers to win lawsuits, resulting in reduced or repealed fees and assessments.

**Initiative Powers.** The measure states that Californians have the power to repeal or reduce any local tax, assessment, or fee through the initiative process. This provision broadens the existing initiative powers available under the State Constitution and local charters.

## Fiscal Impact

### Revenue Reductions

**Existing Revenues.** By July 1, 1997, local governments would be required to reduce or repeal existing property-related fees and assessments that do not meet the measure's restrictions on (1) fee and assessment amounts or (2) the use of these revenues. The most likely fees and assessments affected by these provisions would be those for:



park and recreation programs, fire protection, lighting, ambulance, business improvement programs, library, and water service. Statewide, local government revenue reductions probably would exceed \$100 million annually. The actual level of revenue reduction would depend in large part on how the courts interpret various provisions of the measure. In addition, because local governments vary significantly in their reliance upon fees and assessments, the measure's impact on individual communities would differ greatly.

Within two years, local governments also would be required to hold elections on some recently imposed taxes and existing assessments. The total amount of these taxes and assessments is unknown, but probably exceeds \$100 million statewide. If voters do not approve these existing taxes and assessments, local governments would lose *additional* existing revenues.

**New Revenues.** The measure's restrictions and voter-approval requirements would constrain new and increased fees, assessments, and taxes. As a result, local government revenues in the future would be lower than they would be otherwise. The extent of these revenue reductions would depend on court interpretation of the measure's provisions and local government actions to replace lost revenues.

**Summary of Revenue Reductions.** In the short term, local government revenues probably would be reduced by more than \$100 million annually. Over time, local government revenues would be significantly lower than they would otherwise be, potentially by hundreds of millions of dollars annually. Individual and business payments to local government would decline by the same amount. In general, these local government revenue losses would result in comparable reductions in spending for local public services.

## **Cost Increases**

Local governments would have significantly increased costs to hold elections, calculate fees and assessments, notify the public, and defend their fees and assessments in court. These local increased costs are unknown, but could exceed \$10 million initially, and lesser amounts annually after that.

School and community college districts, state agencies, cities, counties, and other public agencies would have increased costs to pay their share of assessments. The amount of this cost is not known, but could total over \$10 million dollars initially, and increasing amounts in the future.

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## **Overview of Proposition 218 "The Right to Vote on Taxes Initiative"**

Presented To  
The Senate Local Government Committee

(This handout is available on the LAO's World Wide Web site at  
<http://www.lao.ca.gov>.)





## Overview

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### Proposition 218 would:

- Restrict local government revenue raising ability. Bring greater uncertainty to local government finance.
- Reduce the amount of fees, assessments, and taxes that individuals and businesses pay. Increase voter-approval requirements for local taxes, assessments and fees.
- Reduce spending for local public services.

Proposition 218 affects most local government revenues, including garbage collection fees, fire assessments, and utility user taxes. The only local revenues not affected directly by Proposition 218 are: fees for local services not related to property, gas and electric charges, fees collected as a condition of property development, and intergovernmental transfers.





## Assessments

### Which are affected?

All new assessments and some existing assessments. Existing assessments exempt from the measure's provisions are those that meet at least one of the following conditions:

- The assessment was previously approved by voters—or by all the property owners at the time the assessment was created.
- All the funds raised from the assessment are pledged to bond repayment.
- All the funds raised from the assessment are used to pay for sidewalks, streets, sewers, water, flood control, drainage system or vector control programs (such as mosquito abatement).

### Major Provisions

- Only "special benefits" are assessable. Local governments may not impose assessments to pay for the cost of providing a general benefit to the community.
- No property owner's assessment may exceed his or her proportionate share of the cost of the special benefit.
- Property owners must vote to approve all assessments. Property owners' votes are weighted in proportion to the amount of assessments they would pay.





## Fees

### Which are affected?

- All new and existing "property-related" fees.
- There is little consensus as to what constitutes a "property-related fee", however, Proposition 218 explicitly exempts from this definition gas and electric charges and fees imposed as a condition to property development.

### Major Provisions

- No property owner's fee may exceed his or her proportionate share of costs for the property-related service.
- Local governments may not divert property-related fee revenues to pay for other governmental programs.
- Local governments may not impose a property-related fee for a service not immediately available to the property owner.
- Local government must notify all property owners before imposing a property-related fee. Some fees would be subject to voter approval.





## Initiatives and Taxes

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### Major Provisions

- Any local tax, assessment or fee may be reduced or repealed through the initiative process.
- General taxes imposed after December 31, 1994 without a vote of the people must be placed on the ballot for ratification within two years.
- Charter cities must submit proposed general taxes to a majority vote of the people.
- Local government must secure two-thirds voter approval for any tax to be used for special purposes, even if the tax revenues are to be placed in a locality's general fund.





## Fiscal Effect

### IF PROPOSITION 218 IS ADOPTED BY THE VOTERS, WE ESTIMATE THAT:

- Local government revenue reductions statewide would likely exceed \$100 million annually in the short run—and potentially hundreds of millions of dollars annually over the longer term. (The actual fiscal impact would depend on local government actions, voter decisions and court interpretations.)
- Individual and business payments to local government would decline by comparable amounts.
- In general, these local government revenue losses would result in similar reductions in spending for local public services. Because local governments vary significantly in their reliance upon taxes, fees, and assessments, this measure's impact on individual communities would differ greatly.
- Local governments would have increased costs to hold elections, recalculate fees and assessments, notify the public, and defend their fees and assessments in court. These local increased costs are unknown, but could exceed \$10 million initially, and lesser amounts annually after that.
- School and community college districts, state agencies, cities and counties, and other public agencies would have increased costs to pay their share of assessments. The amount of this costs is not known, but could total over \$10 million initially, and increasing amounts in the future.





## Summary

- Proposition 218 is a major measure with significant implications for local governments, property owners, businesses, and California residents.
- The measure would restrict local government's ability to raise most forms of revenue. This restriction would result in lower payments by individuals and businesses to local government—and less spending for local public services.
- Proposition 218's (1) requirement that many existing fees, assessments and taxes be recalculated and submitted to a vote, (2) expansion of the initiative powers, and (3) shift of burden of proof in lawsuits challenging fee and assessment amounts all serve to *increase* local residents' direct control over local government finances, but *decrease* the certainty in local government finance.





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August 1996

## WHAT ARE THE DIFFERENCES BETWEEN ASSESSMENTS, FEES, AND TAXES?

Local governments use a variety of means besides taxation to generate revenue, including fees and assessments. Since the passage of the 1978 property tax limitation initiative known as Proposition 13, local governments have increasingly turned to alternative methods of raising money to pay for specific services. Revenue from benefit assessments levied by cities more than quadrupled between 1981 and 1994, although it continues to account for a very small portion (1.3 percent) of total city revenue. Assessments also account for a small portion of revenue for counties (.02 percent in 1993-94) and special districts (3 percent of non-enterprise special district revenue in 1992-93).<sup>1</sup>

Between 1975-76 and 1993-94, the portion of city revenue accounted for by fees and service charges increased from 32 percent to 41 percent.<sup>2</sup> Counties' share of revenue from service charges remained constant at nine percent. Service charges have accounted for more than 70 percent of special district budgets during the past 20 years, mostly due to user fees charged for enterprise activities such as water and sewer.<sup>3</sup>

California laws authorizing local benefit assessments date back to the early years of this century, when local governments used assessments primarily to pay for physical improvements adjacent to the assessed land. Use of assessments as a local revenue source actually peaked during the early decades of the century. More recently, the state has authorized the use of assessments for a broad array of facilities and services ranging from fire suppression to pedestrian malls to the control of pests in the wine industry.<sup>4</sup> In recent years, local governments' use of fees and assessments has come under increasing criticism from taxpayers'-rights groups, who allege that local jurisdictions disguise tax increases as fees or assessments to circumvent voter approval requirements for new taxes. Local governments respond that they merely follow a long-established practice of charging property owners for services or improvements that benefit the owners' land.

The debate about fees and assessments will attract more attention in the months to come. The November ballot will include an initiative that would amend the state constitution to make it more difficult for local governments to raise revenue through fees and assessments. To promote an informed debate, this *Budget Brief* describes the differences between taxes, fees, and assessments and the purposes for which they are used. These three revenue tools – and their uses – are legally distinct from one

<sup>1</sup> Data is from the State Controller's series of reports on financial transactions of cities, counties, and special districts. The Controller's publications rely on self-reporting by local governments.

<sup>2</sup> *State and Local Government Finance in California: A Primer* (California Budget Project, 1996).

<sup>3</sup> *Ibid.*

<sup>4</sup> *Assessing the Benefits of Benefit Assessments* (Senate Local Government Committee, May 1995).



another. In practice, however, there is considerable overlap among them. An activity financed by taxes in one jurisdiction might be financed through fees or assessments in another jurisdiction.

## WHAT CONSTITUTES "LOCAL GOVERNMENT?"

There is more to local government than cities and counties. Two other major forms of local government are school and community college districts and special districts. The categories of local government differ in terms of the kinds of power they possess and the range of services they provide.

*Cities and counties* are general purpose governments that provide a wide range of services to local residents. The authority of counties and general law cities is limited to that expressly provided by the state constitution or by statute. Charter cities' powers are defined by their individual charters, by the constitution, and, with respect to matters of statewide concern, by the Legislature.<sup>5</sup>

*Special districts* are limited-purpose governments that differ from cities and counties in important ways. Special districts are usually formed to provide a specific service, such as fire protection, water service, or street lighting, to a defined geographic area. Some special districts, such as county service areas, provide multiple services. State laws set out the types of special districts that can be formed as well as the rules for forming them.

Cities and counties can make and enforce rules governing behavior and activities (police power), whereas special districts' powers are generally restricted to raising money and providing a service. Special districts may be independent, with their own separately elected governing boards, or they may be dependent, meaning the city council or county board of supervisors serves as the governing board. Roughly two-thirds of California's approximately 4,900 special districts are independent.

*Enterprise special districts*, which provide services such as water, electricity, or transit that are used by individual customers, are funded primarily through user fees. *Non-enterprise districts*, which provide services such as parks or fire protection that benefit the entire community, rely more heavily on taxes.

*School and community college districts* exist to provide one service: education. Unlike cities, counties, and special districts, school districts are guaranteed a minimum level of funding by the State Constitution. In addition to their property tax allotment, school districts can raise revenues locally through voter-approved special taxes, assessments for some purposes, and developer fees.

## WHAT IS A TAX?

A tax is a charge against an individual or landowner, which pays for public services and facilities that provide general benefits. There need not be a direct relation between an individual taxpayer's relative benefit from services or facilities and the tax he or she pays.

Counties, school districts, and special districts can only impose taxes specifically authorized by the Legislature. Cities may impose any tax not otherwise prohibited by state law.<sup>6</sup> The state has "reserved" a number of taxes for its own purposes, prohibiting local governments' use of these revenue sources. For example, the state reserves the right to tax cigarettes and alcoholic beverages.

<sup>5</sup> The California Supreme Court has held that where a city charter and a state statute are in conflict, for the statute to prevail, the state must have good reasons, grounded in statewide interest, to override a charter city's authority. *Johnson v. Bradley* (1992), 14 Cal.Rptr. 2d 470, 4 Cal.4th 389, 841 P.2d 990.

<sup>6</sup> Charter cities have this power under the home rule provision of the state constitution. The legislature granted the same autonomy to general law cities in 1982 (Government Code Section 37100.5).

There are two basic categories of taxes, general and special:

**General taxes** are defined as those that generate revenue for the general operation of government. In other words, revenues from a general tax may be used for any purpose the governing board chooses to spend it on.

State statutes lay out requirements for local governments planning a new or increased general tax. Generally speaking, the board considering the tax must notify the public of the proposal and hold a public meeting on the tax before adopting it. In 1986, California voters approved Proposition 62, a statutory initiative that required local governments to get majority voter approval before levying a general tax. California appellate courts ruled the vote requirement unconstitutional, but in 1995 the State Supreme Court upheld it.<sup>7</sup> As a result, California's general law cities and counties must now gain majority voter approval for all new or increased general taxes. Legal experts disagree as to whether this requirement also applies to the state's 89 charter cities, since the State Constitution allows charter cities to control their own "municipal affairs."

A **special tax** is one whose proceeds can only be used for a specified purpose. For example, a city might levy a parcel tax on property to pay for library services, or a county could vote to levy a sales tax for jails. The State Constitution requires that local special taxes be approved by two-thirds of voters. "Special" taxes have been defined through a long series of often conflicting court decisions.<sup>8</sup>

## WHAT IS A BENEFIT ASSESSMENT?

A benefit assessment is an involuntary charge levied on property to pay for public improvements, such as roads or street lights, that benefit property. The philosophy behind benefit assessments (also known as special assessments) is to link the cost of public improvements to those landowners who specifically benefit from those improvements. The amount of an assessment on a particular property is related to the amount of benefit that property receives. An assessment may be a flat amount per parcel or based on a measure such as square footage. Assessments cannot be based on the value of property, because Proposition 13 limits the property value-based tax rate to one percent plus additions for certain types of voter-approved debt service. Assessments usually appear on property tax bills.

Charter cities can levy any benefit assessment not otherwise prohibited by state law. General law cities, counties, special districts, and school districts can levy benefit assessments under specific authority granted by state law. California currently has 34 benefit assessment acts on the books, ranging from the Improvement Act of 1911 (for street paving, grading, sewers, and "other necessary improvements") to the Property and Business Improvement District Law of 1994 (for tourism promotion, parking lots, fountains, and other facilities and services to improve commercial areas). The authorization acts vary in terms of which types of local governments can use them, whether voter approval is required, how to spread the costs among landowners, and whether an assessment can be nullified based on property owner protest. Some assessment acts require landowners to petition local officials in order to form a benefit assessment district. Most assessment acts do not require local agencies to get voter approval for a new or increased assessment. However, most do contain provisions nullifying the assessment if a majority of property owners protest, and all require due process.

<sup>7</sup> *City of Westminster v. County of Orange* (1988) 251 Cal.Rptr. 511, 204 Cal.App.3d 623; *City of Woodlake v. Logan* (1991) 282 Cal.Rptr. 27, 230 Cal.App.3d 1058. In *Santa Clara County Local Transportation Authority v. Guardino* (1995), the California Supreme Court ruled that a half-cent sales tax imposed by a local transportation authority was a special tax requiring two-thirds voter approval under the terms of Proposition 62.

<sup>8</sup> See *City and County of San Francisco v. Farrell* (1982) 184 Cal.Rptr. 713, 32 Cal.3d 47, 648 P.2d 935; *Los Angeles County Transportation Commission v. Richmond* (1982) 182 Cal.Rptr. 506, 31 Cal.3d 318, 644 P.2d 192; *Rider v. County of San Diego* (1991) 2 Cal.Rptr.2d 490, 1 Cal.4th 1, 820 P.2d 1000; *Santa Clara County Local Transportation Authority v. Guardino* (1995) 45 Cal.Rptr.2d 207, 11 Cal.4th 220, 902 P.2d 225.



Since 1992, state law has required that local agencies considering implementing any assessment notify affected landowners 45 days in advance and hold a public meeting and a public hearing on the proposal.<sup>9</sup> The notice must include the estimated amount of assessment per parcel, the purpose of the assessment, the dates, times, and locations of the public meeting and public hearing, and instructions for protesting the assessment, if applicable. The notice must either be mailed to all affected landowners or advertised in local newspapers, depending on the number of affected parcels and the use of the proposed assessment.

Benefit assessments are usually defined geographically and levied on all properties within a designated benefit assessment district. Some assessment districts exclude certain types of properties from assessments. The boundaries of a benefit assessment district may coincide exactly with those of a city, county, or special district, or they may cover only part of those jurisdictions.

What is the difference between a benefit assessment district and a special district? A special district is a unit of government with a governing board and the authority to raise revenue and provide a limited number of services. A benefit assessment district is not a unit of government. Rather, it is a financing tool used by governments such as cities, counties, and special districts.

## WHAT IS A MELLO-ROOS DISTRICT?

A Mello-Roos Community Facilities District is a financing tool that local governments can use to levy special taxes for designated community improvements, such as freeway interchanges, library services, or recreation programs. To levy a Mello-Roos tax, the area's voters (or affected landowners if fewer than 12 voters reside in the district) must consent to being taxed. A two-thirds approval vote is required, since a Mello-Roos tax is always a special tax. Most Mello-Roos districts are established prior to development and are used to finance basic infrastructure.

## WHAT IS A FEE OR CHARGE FOR SERVICE?

A fee is a voluntary charge imposed on an individual for a service or facility provided directly to that individual. State law requires that a fee cannot exceed the estimated reasonable cost of providing a service or facility, or else it is considered a special tax. Many enterprise special districts, such as those that provide water or electricity, rely heavily on fees for their operating revenues. Fees usually show up on utility bills, although some fees show up on property tax bills. Community hospitals, operated by hospital districts, are another example of an enterprise activity.

Cities, counties, non-enterprise special districts, and school districts also charge fees for various services, such as sewer connection, user permits, and building code approvals. School districts typically utilize developer fees to partially offset the increased demand for school facilities brought about by new construction.

Local governments are not required to gain voter approval for a new or increased fee, but they must hold a public hearing on the proposed fee and notify the public of the hearing 10 days in advance. For some types of fees affecting property, construction, and development, the public notice must specify the estimated cost of providing the service for which the fee is proposed, and the local agency must hold an additional public meeting where citizens may present testimony.

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<sup>9</sup> Government Code, Section 54954.6.



Certain fees, known as "standby charges," can be levied on a new development that is or can be connected to local water and sewer systems. Local agencies must notify the general public and affected property owners of the description and amount of the proposed charge, as well as the date, time, and location of a public hearing on the charge. Property owners have a chance to protest these charges. If the local agency receives protests from 40 percent or more of the affected parcels, it must abandon the proposed charge for one year.

Cities, counties, and school districts may impose fees on new developments without voter approval. The fees must bear a reasonable relationship to the need for additional public services and facilities generated by the new development. Developer fees are subject to public notice and hearing requirements similar to those for other types of fees.

## CONCLUSION

Despite recent controversy over their use, benefit assessments are actually a long-standing source of local revenues. Assessments provide a relatively small share of local revenues for a broad range of services. How assessments work, what they fund, who they are levied by, and how they are imposed is often confusing due to the large number of laws governing their use. Improved communication can help alleviate misconceptions and provide voters with the information needed to evaluate the use of the taxes and fees they pay. Future *Budget Briefs* will explore in greater detail how fees and assessments are used, their costs, and the services funded through the use of benefit assessments.

## SOURCES FOR MORE INFORMATION:

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The following publications provide additional details on the role of fees and assessments in local government finance:

League of Women Voters, *State and Local Finances: The Current Situation, Study Guide I*. (1994)

Paik, Helen C., *Local Government Finances Since Proposition 13: A Historical Primer*. Sacramento, CA: California Research Bureau, California State Library (1995).

Senate Committee on Local Government, *Assessing the Benefits of Benefit Assessments: A Citizen's Guide to Benefit Assessments in California*. Sacramento, CA: Senate Publications (1995).

Senate Committee on Local Government, *Public Revenues, Public Awareness*. Sacramento, CA: Senate Publications (1993).

Senate Committee on Local Government, *What's So Special About Special Districts? A Citizen's Guide to Special Districts in California* Second Edition. Sacramento, CA: Senate Publications (1993).

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## Why We Need Proposition 218

Taxes, fees and assessments are out of control!

- Local governments in most major cities are imposing taxes, like utility user taxes, without a vote of the people.
- Local governments can now impose fees and assessments on property without the approval of those being taxed.
- Since the passage of Proposition 13, assessments on property have grown an average of 19% a year over 15 years — a 976% increase!
- Today, fees and assessments take a bigger bite than any of the three largest taxes — property, sales and personal income taxes.
- Fees and assessments in California increased \$1.7 billion in fiscal year 1992-93.
- According to three recent expert studies, California governments are taking in and spending more, even calculating for inflation and population growth, than they did prior to Proposition 13, a time when governments were considered "rich."

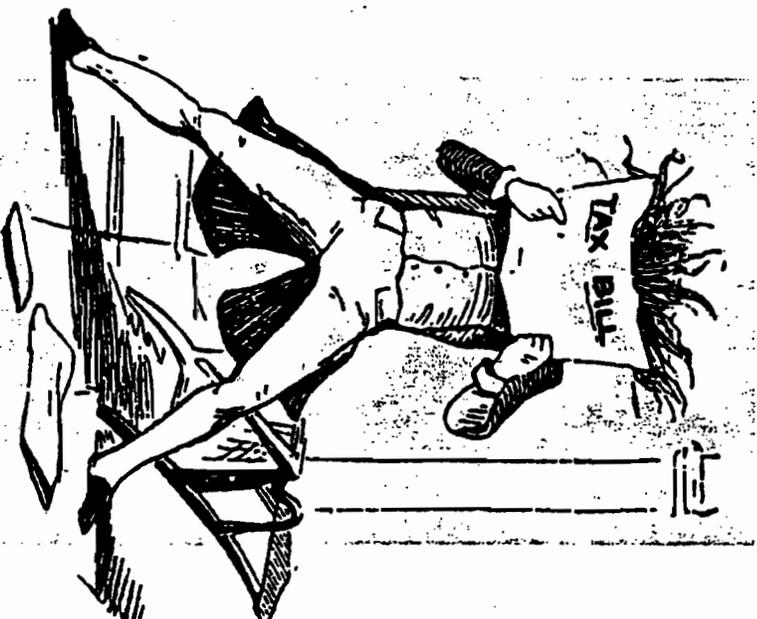


### ON 218

The Right to Vote on Taxes Act

Because the people,  
not the politicians,  
should have the right to  
approve new taxes!

# Tired of surprises on your tax bill?!



## YES ON PROP. 218

Prepared and distributed by Yes on 218, a project of the Howard Jarvis Taxpayers Association a nonprofit tax-exempt organization, 621 South Westmoreland Avenue, Los Angeles CA 90005-3971.

# The RIGHT TO VOTE ON TAXES ACT — PROP. 218

What is Proposition 218, the Right to Vote on Taxes Act?

Prop. 218 is an amendment to the California Constitution which will guarantee the right to vote on local taxes, even if these taxes are disguised under other names like "assessments" and "fees." It will appear on the November 5, 1996 ballot.

How did Prop. 218 get on the ballot — is this just another special interest measure?

Prop. 218 was placed on the ballot after thousands of taxpayers collected over a million signatures of registered voters. It is backed by taxpayers who believe the people have the right to be consulted before government increases taxes. Prop. 218 received no special interest funding or support.

Who wrote Proposition 218?

Prop. 218 was written by the Howard Jarvis Taxpayers Association in consultation with Paul Gann's Citizens Committee, the Alliance of California Taxpayers and Involved Voters, and taxpayer groups throughout the state.

How does Proposition 218 guarantee my right to vote on local taxes?

Proposition 218, the Right to Vote on Taxes Act, will amend the state constitution to guarantee Californians the Right to vote on local taxes and assessments.

Specifically, Proposition 218, the Right to Vote on Taxes Act will:

- require all new local taxes — like utility user taxes — be submitted to voters for approval.
- allow property owners to approve all new assessments on property.
- require existing assessments, that do not directly benefit property, to be submitted to property owners for ratification.
- strictly limit the use of fees and charges imposed on property owners.
- provide local voters the right to use the initiative to make changes in local laws governing taxes, fees, assessments and charges.

Aren't assessments on property already limited under Proposition 13, NELLINI VALTOSIGETI

No. According to the courts, Prop. 13 covers only property taxes, not so-called "benefit assessments" and "maintenance assessments" on property. However, for the average homeowner who pays the bill, there is no difference between taxes and assessments — because failure to pay either will result in a lien on the property. Proposition 218 will establish uniform rules for new assessments requiring that property owners be sent ballots and it will take a majority of ballots cast to approve new assessments.

How will renters benefit from the passage of Proposition 218?

First, Prop. 218 guarantees all registered voters the right to vote on general and specific purpose taxes. This includes taxes on utilities that are paid by renters and homeowners alike. Second, Prop. 218 for the first time gives renters, who through their lease agreements are obligated to pay assessments, the right to protest. Under Prop. 218 those who pay, including renters, would be able to vote.

Will Proposition 218 cripple local government by making new taxes impossible?

Not at all. Prop. 218 simply gives those who are taxed the right to decide. By giving people the power to approve new taxes, Prop. 218 will force government officials to work more cooperatively with local residents for the good of the entire community.

How can I help pass Proposition 218, the Right to Vote on Taxes Act?

To join our citizen-based coalition to pass the Right to Vote on Taxes Act, simply complete and return the attached supporter card.

And on November 5th  
Vote YES on 218  
The Right to Vote on Taxes Act

Because the people, not the politicians, should have the right to approve new taxes!



Yes, I support Prop. 218, the Right to Vote on Taxes Act! You can count on me to help pass this important taxpayers protection initiative.

Name \_\_\_\_\_

Address \_\_\_\_\_

City/State/zip \_\_\_\_\_

Telephone (home) \_\_\_\_\_

(work) \_\_\_\_\_

Please send me \_\_\_\_\_ brochures to pass on to my friends and neighbors.

You may list my name as a supporter of Prop. 218

I'd like to make a campaign donation of \_\_\_\_\_

*Checks should be made payable to: Yes on 218.*

*Contributions or gifts to Yes on 218, a project of the Howard Jarvis Taxpayers Association, are not tax-deductible.*

Mail to:

YES on 218

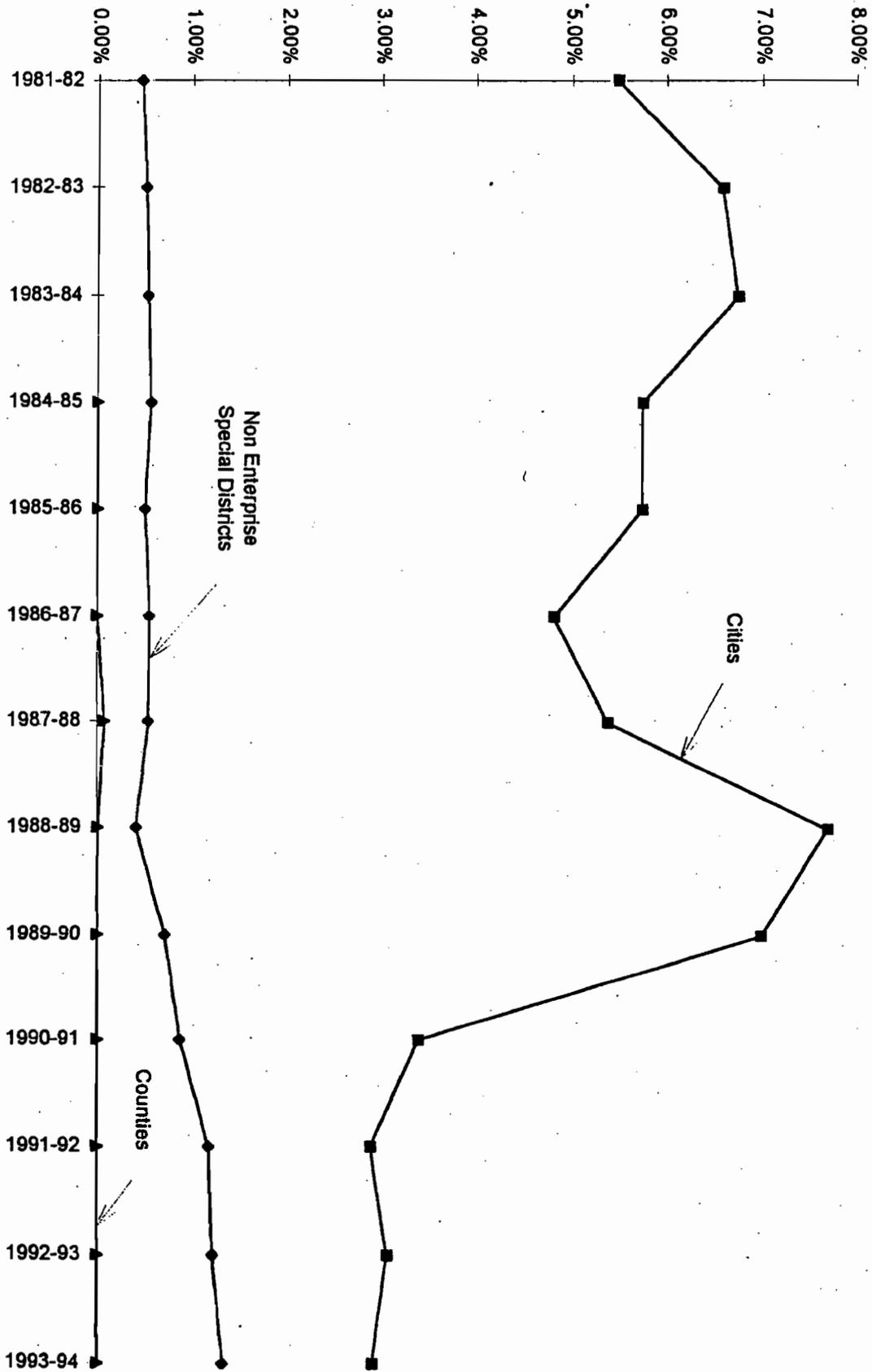
HJTA

621 South Westmoreland Ave., #202  
Los Angeles, CA 90005-3971

Thank you for your support!



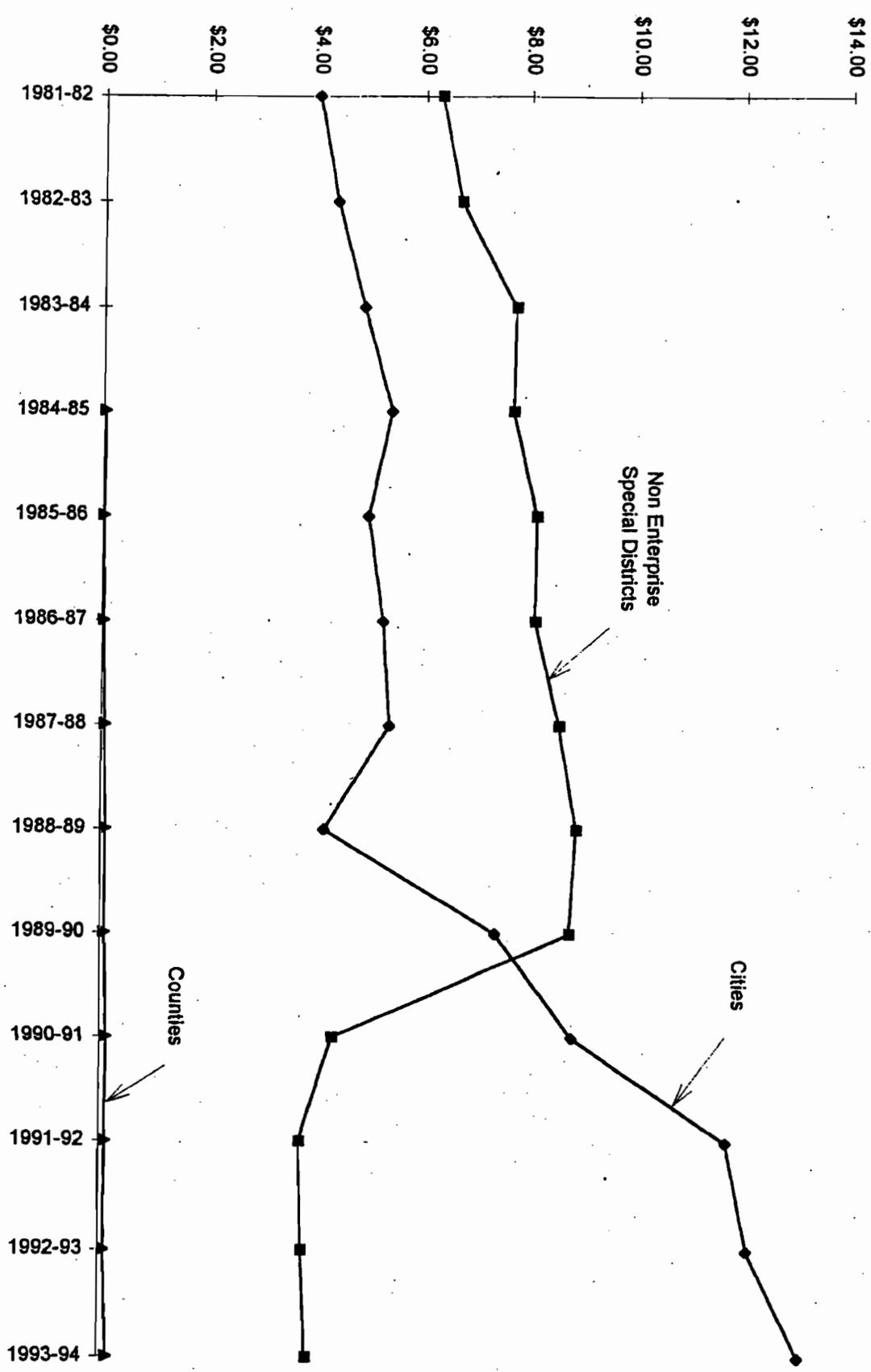
### What Share Of Local Revenues Come From Assessments? Percent Of Total Revenues



California Budget Project 9/23/96



### How Much Do Californians Pay In Assessments? Per Capita, Constant 1993-94 Dollars

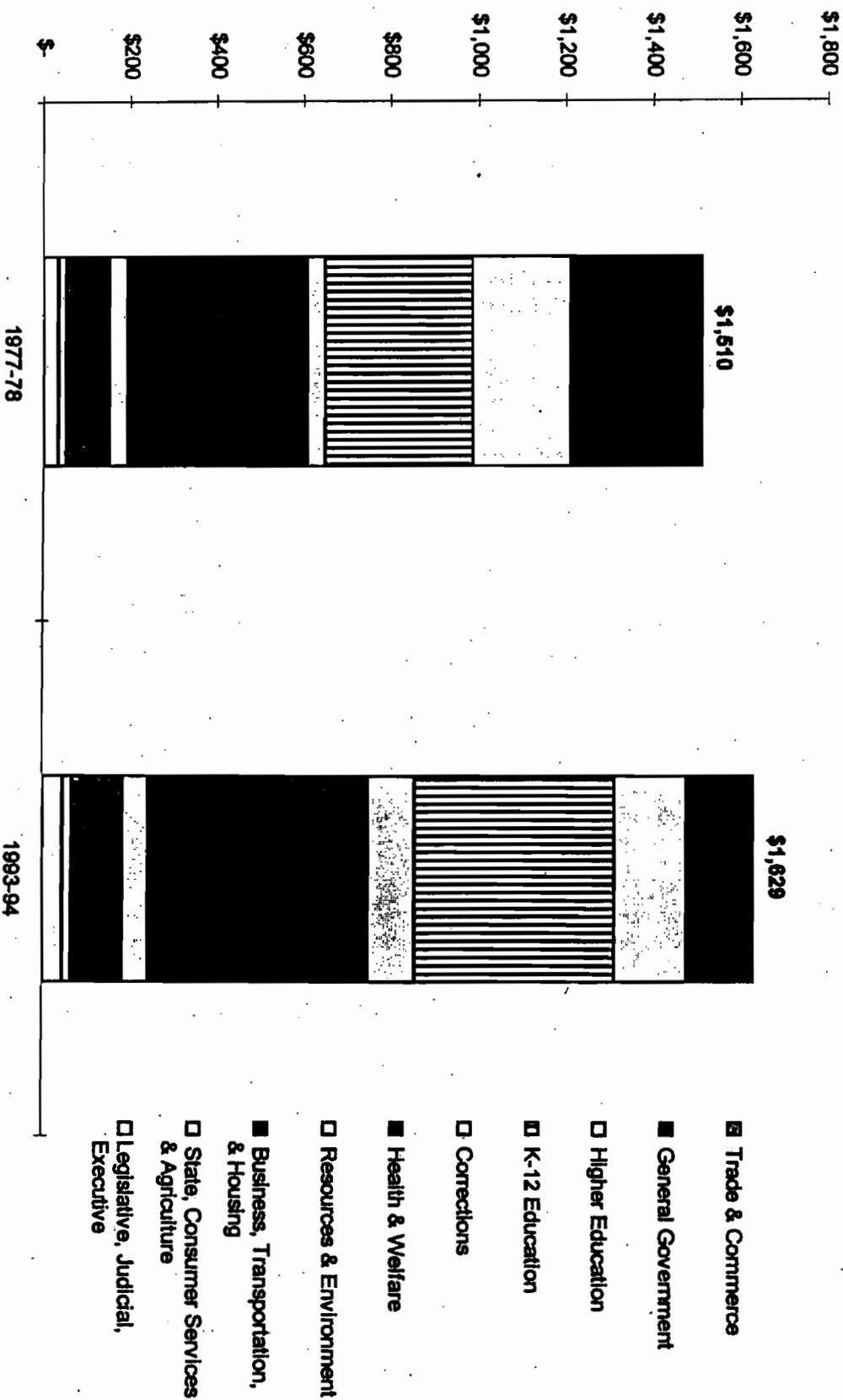


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# Real Per Capita Total State Expenditures

Constant 1993-94 Dollars

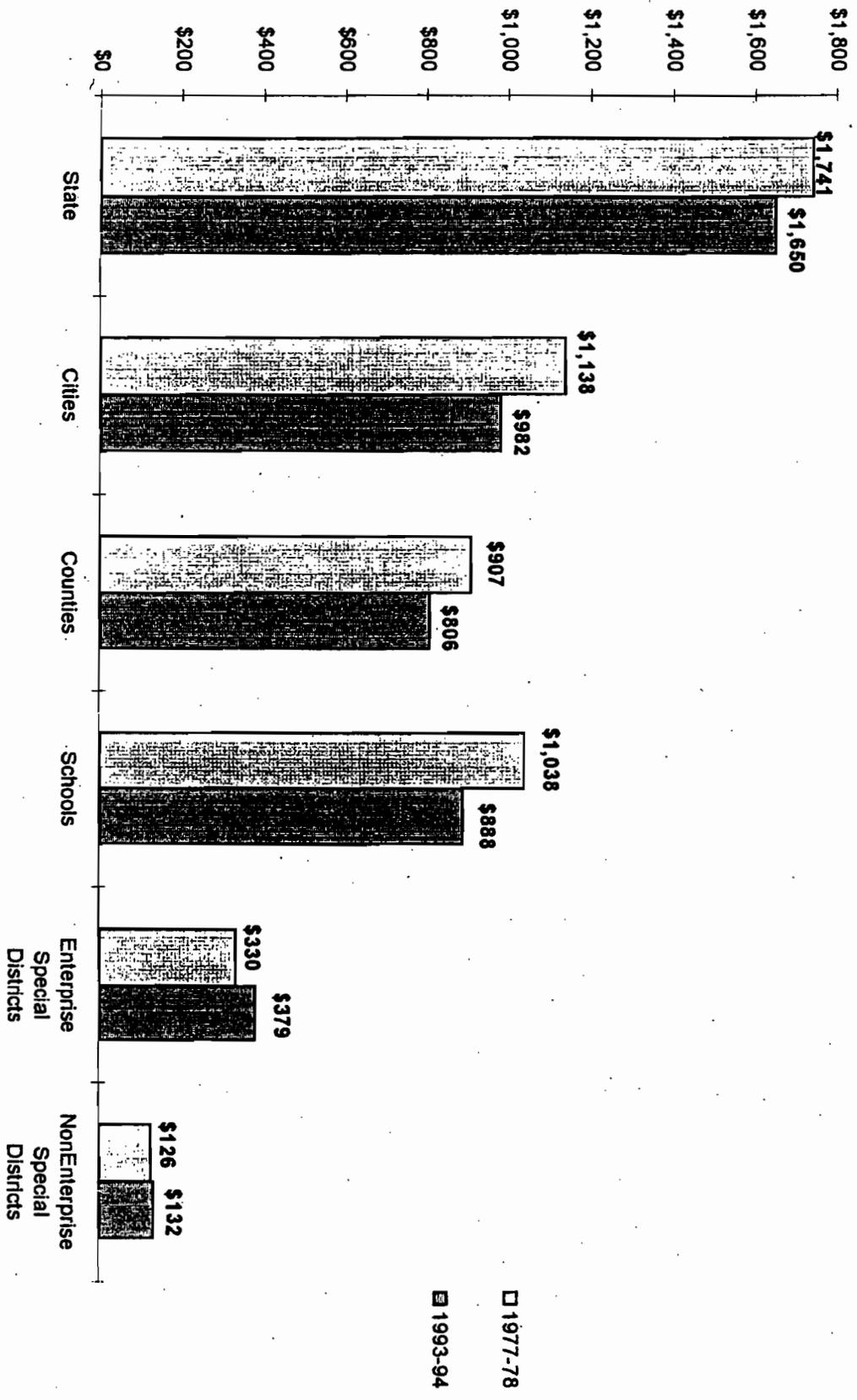


California Budget Project 9/23/96



# Per Capita Revenues By Type Of Jurisdiction

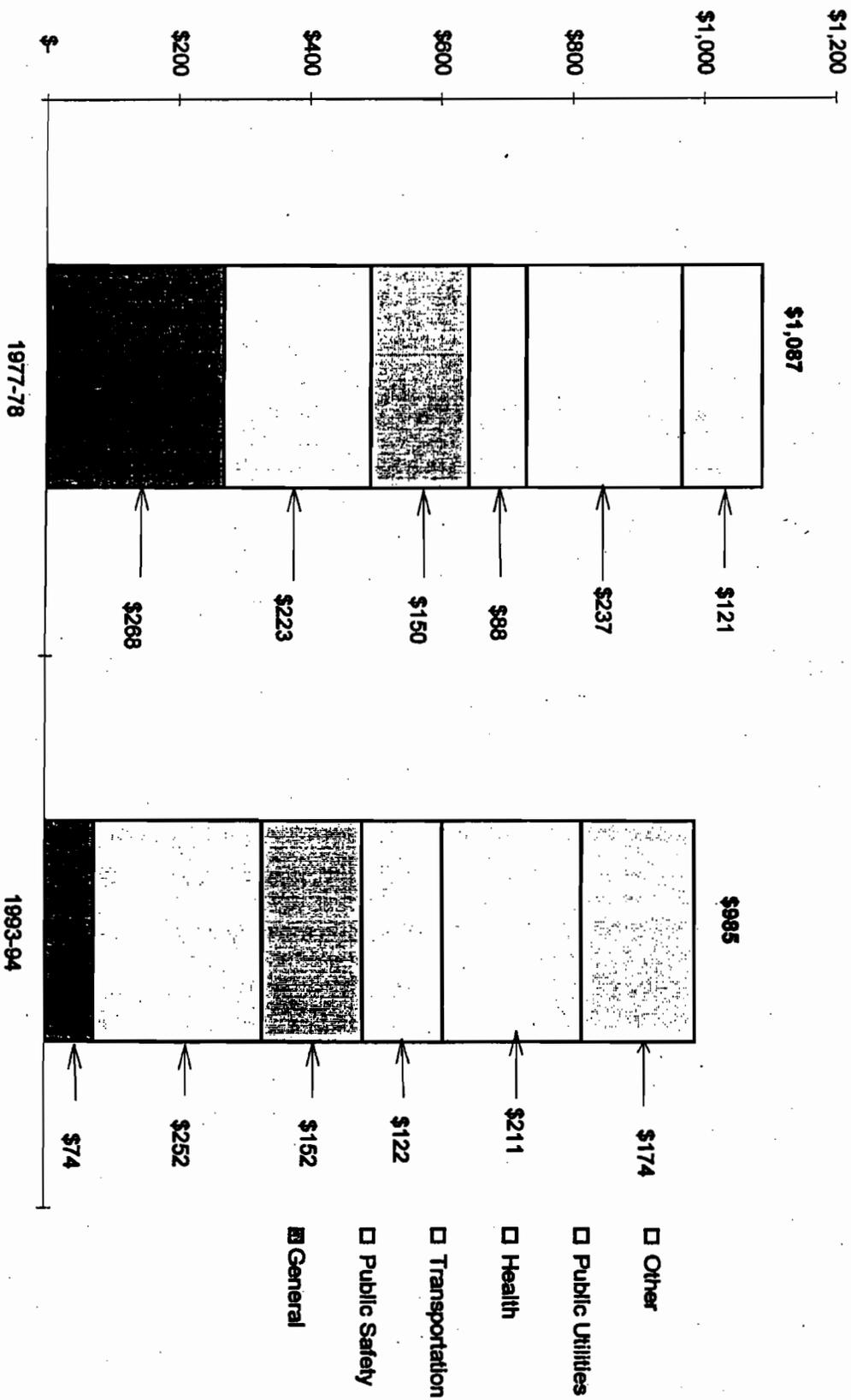
Constant 1993-94 Dollars





# Cities: Real Per Capita Expenditures

Constant 1993-94 Dollars

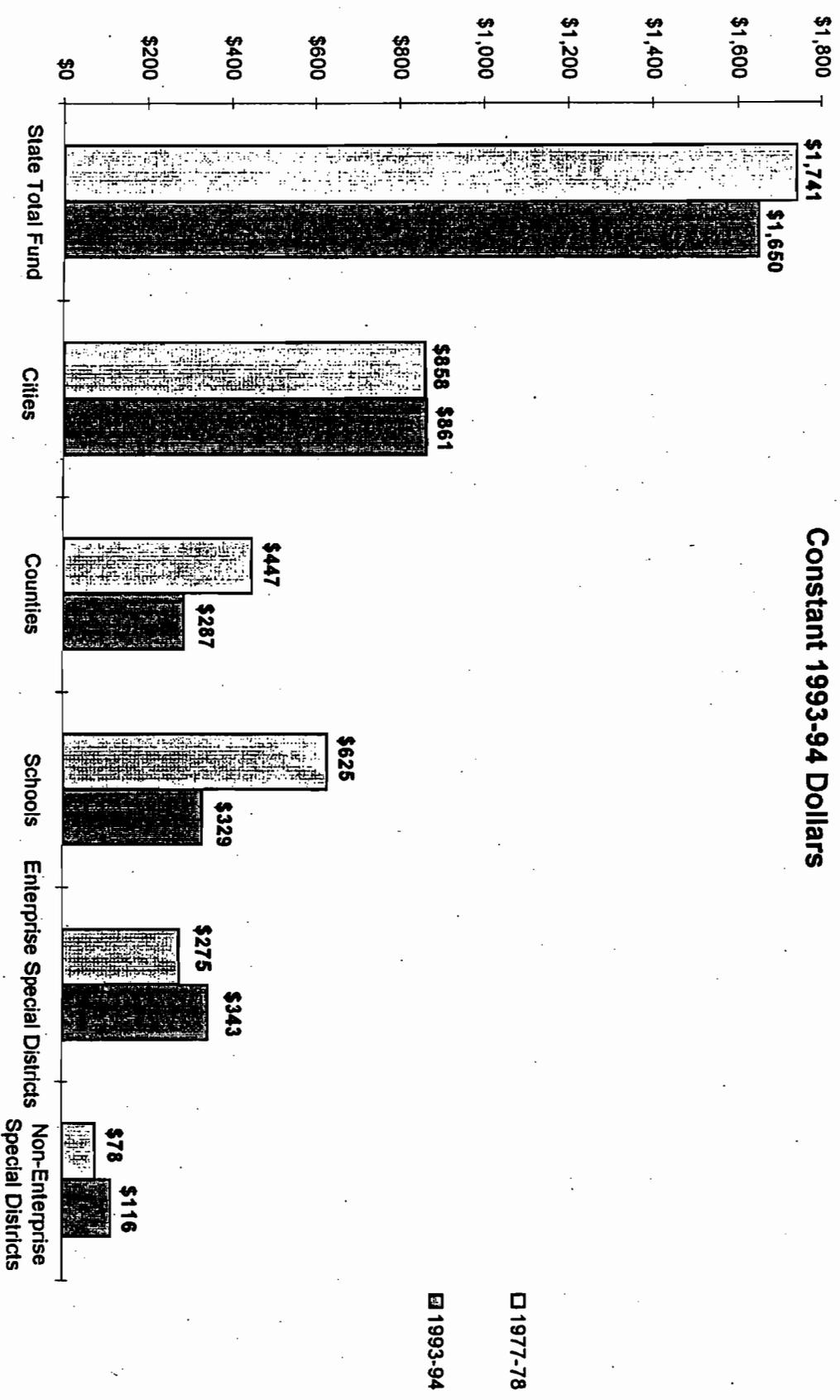


California Budget Project 9/23/96



# Per Capita Own Source Revenue By Type Of Jurisdiction

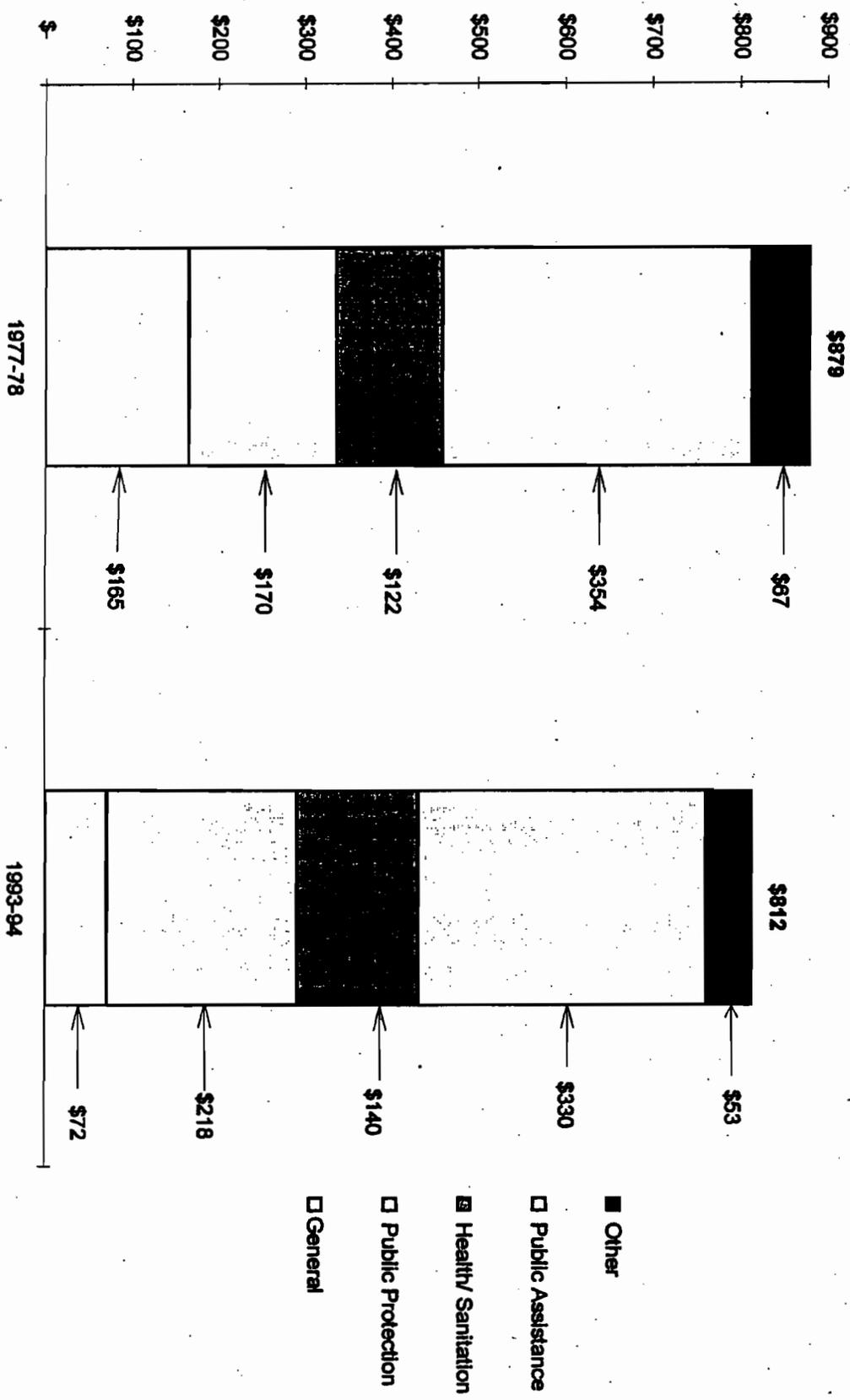
Constant 1993-94 Dollars





# Counties: Real Per Capita Expenditures

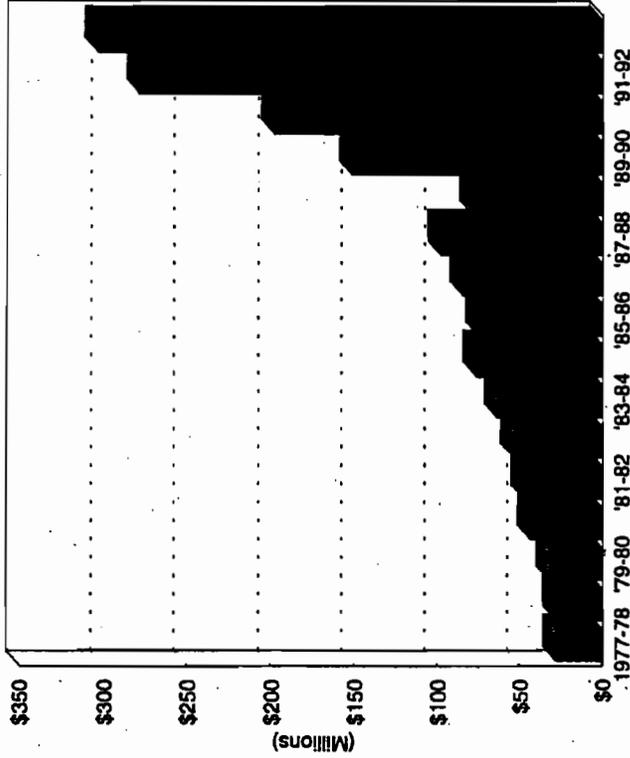
Constant 1993-94 Dollars



California Budget Project 9/23/96

# City Benefit Assessments: Growth Since 1977-78

Year	Collections	Percent Increase
1977-78	28,259,364	---
'78-79	28,496,585	0.84%
'79-80	32,457,145	13.90%
'80-81	43,686,988	34.60%
'81-82	47,827,127	9.48%
'82-83	54,416,049	13.78%
'83-84	64,368,146	18.29%
'84-85	76,751,973	19.24%
'85-86	75,640,964	-1.45%
'86-87	85,197,083	12.63%
'87-88	98,404,883	15.50%
'88-89	79,024,889	-19.69%
'89-90	151,774,033	92.06%
'90-91	198,500,962	30.79%
'91-92	279,266,946	40.69%
'92-93	304,064,960	8.88%



<b>Assessments</b>	<b>Inflation</b>	<b>Population</b>
19%	6%	2%
Total 15-Year Increase (Dollars)	145%	40%
\$275,805,596		
Total 15-Year Increase (Percent)		
976%		

\* 1988-89 revenue appears to be in error because Los Angeles failed to report about \$30 million in assessments that year.

Source: California Taxpayers' Association from State Controller's Office publications: "Financial Transactions Concerning Cities."

19-Mar-96

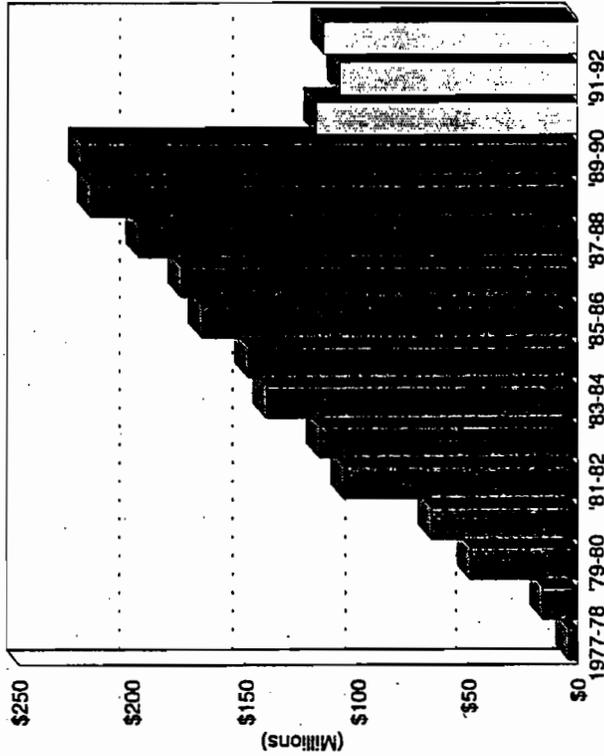


LEGISLATIVE INTENT SERVICE (800) 666-1917

# Special District Benefit Assessments & Parcel Taxes

## Non-Enterprise Districts Only

Year	Collections	Percent Increase
1977-78	4,591,475	---
'78-79	16,195,494	252.73%
'79-80	49,409,267	205.08%
'80-81	67,049,278	35.70%
'81-82	106,507,563	58.85%
'82-83	117,389,441	10.22%
'83-84	140,933,740	20.06%
'84-85	149,012,680	5.73%
'85-86	168,888,636	13.34%
'86-87	178,299,686	5.57%
'87-88	197,371,624	10.70%
'88-89	218,883,085	10.90%
'89-90	222,976,636	1.87%
'90-91	118,724,898	-46.75%
'91-92	107,956,235	-9.07%
'92-93	115,496,858	6.98%



The drop after 1989-90 is solely due to a change in the way the state Controller's Office reports these figures. Some assessments are being reported as fees (service charges) following 1989-90.

### Assessments and Parcel Taxes

	Inflation	Population
Average Percent Increase	7%	2%
Total 12-Year Increase (Dollars)	115%	30%
Total 12-Year Increase (Percent)	4756%	

Source: California Taxpayers' Association from State Controller's Office publications: "Financial Transactions Concerning Special Districts."



# For the Right to Vote on Local Taxes

## YES ON PROP 218!

More than a million California voters signed petitions to qualify Proposition 218 for the November ballot. Known as "The Right to Vote on Taxes Act," Proposition 218:

- **Requires local voter approval for all new local taxes—majority approval for new general taxes, and two-thirds approval for special purpose taxes, fees and charges.**
- **Requires majority approval by property owners before new assessments on their property can be imposed.**
- **Prohibits property-related fees and charges from being more than the cost of the service provided.**
- **Gives local voters the right to use the initiative process to make changes in local law governing taxes, assessments, fees and charges.**
- **Makes local taxation fair and uniform by giving all California voters the same voting rights over local taxes, no matter where they live.**
- **Establishes uniform procedures for assessing property owners—so all property owners are treated fairly and equally.**
- **Provides renters—for the first time ever—the right to vote on property tax assessments directly affecting their rental payments.**
- **Provides absolutely no new rights to corporations or non-resident property owners not already guaranteed under state law.**
- **Prevents local politicians from end-running Proposition 13. No longer can they raise taxes without voter approval by calling them "fees" or "assessments."**

For more information or to help on the campaign, please call (213) 384-9656.



**YES ON 218**

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Prepared and distributed by YES on 218, a project of the Howard Jarvis Taxpayers Association, a nonprofit, tax-exempt organization, 621 South Westmoreland Avenue, Los Angeles, CA 9005-3971

(800) 666-1917

LEGISLATIVE INTENT SERVICE



# The sky will not fall.

**The world will not end. Civilization will not perish.**

**And big corporations won't get new voting rights with Proposition 218.**

Opponents of Proposition 218 are using something called the "big lie." You've seen it before—heated rhetoric, boogeymen and dark predictions of doom meant to strike terror in the hearts of voters.

Opponents of Proposition 218 claim it gives big corporations and foreign investors frightening new power over little local taxpayers. Scary—but not true.

They say libraries will close, police cars will stop rolling, fires will rampage and earthquakes will go unanswered if it passes. Do they have no shame?

**Proposition 218 simply gives voters the right to vote on new local taxes, assessments and fees.** Nothing scary about that to voters. In fact, in a recent poll, 71% of California voters said they want the right to vote on new local taxes, assessments and fees.

And why shouldn't they. Local taxes have soared 976% in California since 1978, many imposed without voter consent.

Because Proposition 218 gives taxpayers more control over the taxes they pay, it's endorsed by the California Chamber of Commerce, the California Taxpayers Association, 18 local tax reform groups and 35 legislators.

**Don't be suckered by the "big lie."** And remember who's opposing Proposition 218—the people who keep raising taxes, assessments and fees without voter approval.

**Take time to learn the truth about Proposition 218.** Knowing what it really does could save you a fortune. For more information, call our "set the record straight" line at 213-384-9656.



**YES ON 218**



# The Myths About Proposition 218

**MYTH #1: Proposition 218 gives new powers to corporations and nonresidents.**

**TRUTH: No new powers are granted. Proposition 218 follows current assessment procedures which already allow property owners, including corporations and nonresident property owners, to participate. This includes proportional participation by property owners.**

The current assessment process already allows property owners, including corporations and nonresident property owners, to protest an assessment. With few exceptions, an election is not required under current laws. Where an election is required, the California Supreme Court has recognized that property owner elections for assessments are appropriate because landowners are disproportionately affected by the election issue and because the financial burden falls directly and precisely on landowners. While Proposition 218 requires property owner elections for assessments, tax elections are voted upon by all registered voters.

Proportional participation by property owners, including corporations and nonresident property owners, is not new. Property owner protests under the current assessment process are weighted, usually according to the size of the parcel. Under Proposition 218, ballots are weighted according to the amount of assessment. This is fair because financial burden and voting power are equalized. As a practical matter, for assessments to finance local neighborhood improvements such as sidewalks, voting power will not vary that much because homeowners will generally pay similar assessment amounts.

In 1992, the Legislature enacted SB 773 which allows assessments for various indoor public facilities, subject to a property owner election using weighted (proportional) voting. This is just one example of existing statute containing the same voting elements that Proposition 218 opponents object to. Yet, there was no public outcry over the voting requirements when this law was enacted. The law was overwhelmingly approved by the Legislature, and without a single negative vote in the State Senate.

Please see the attached chart for additional comparative information about the Proposition 218 assessment process.



**MYTH #2: Proposition 218 reduces homeowner voting rights for assessments.**

**TRUTH: Proposition 218 does not reduce homeowner voting rights for assessments because homeowners currently have no constitutional right to vote on assessments.**

The current assessment process is very unfair to all property owners, including homeowners. Under current law, if a property owner does not file a written protest against an assessment (i.e., does nothing), it counts as though the owner supports the assessment. This makes it nearly impossible to block an assessment. Under Proposition 218, the outcome is determined only by those who actually vote, with a majority of ballots cast being necessary to approve an assessment. This will give homeowners a reasonable opportunity to block an assessment if they believe an assessment proposal lacks merit.

**MYTH #3: Proposition 218 hurts public safety programs.**

**TRUTH: Local officials already have a constitutional obligation to give priority to providing adequate public safety services. Proposition 218 does not alter this obligation.**

Proposition 172, approved by voters in 1993, sets forth the constitutional obligation that local officials give priority to providing adequate public safety services. Local officials are supposed to adequately fund public safety programs before they fund other programs. This is common sense, and any politician that doesn't do this will not likely remain in office for long. A new law enacted earlier this year (AB 3229) provides \$100 MILLION in additional funding to local governments for public safety. If local officials want additional revenue from taxpayers, whether for public safety or any other purpose, they need only convince local voters that higher taxes are justified.

Proposition 218 does not eliminate funding sources for public safety programs or any other program. Rather, Proposition 218 focuses on local government revenues imposed without voter approval, and requires local officials to obtain voter approval if they want to continue imposing that particular revenue source. For example, "fees" for general governmental services are thinly disguised taxes that politicians impose without voter approval. Local politicians can call such levies whatever they want, but Proposition 218 treats these levies as taxes that may be imposed as long as voter approval is obtained.

Proposition 218 also does not prohibit legitimate assessments for emergency purposes such as a natural disaster. The time period required to comply with the assessment procedures under Proposition 218 is about the same as that under current law.



Opponents have also wrongfully claimed that all fire suppression assessments would end. Nothing in Proposition 218 expressly prohibits fire suppression assessments. If a fire suppression assessment district can be shown to provide special benefits to property within close proximity of a fire facility, then it may in fact meet the requirements of the act.

**MYTH #4: Proposition 218 eliminates "Lifeline" services.**

**TRUTH: Proposition 218 does not eliminate or otherwise prohibit "Lifeline" services.**

"Lifeline" rates for the elderly, disabled and the disadvantaged for telephone, gas and electric services are NOT affected by Proposition 218. Fees for these services are outside the scope of the measure.

Some communities have "lifeline" rates for water, sewer or garbage collection services. "Lifeline" programs for these services will not be prohibited. The decision to provide "lifeline" services is and will remain a discretionary policy decision made by local officials. Proposition 218 does not preclude local governments from using existing tax dollars to finance "lifeline" programs, just like taxpayer funds are used to finance other programs that benefit people in need. However, if local officials want to increase taxpayer utility bills to finance these programs, voter approval will be necessary.

Where Proposition 218 will provide significant relief to taxpayers, especially the elderly, the disabled and the disadvantaged, is with the fee limitation provisions. In particular, stopping the current practice of many public agencies from overcharging ratepayers through excessive utility bills and transferring the "surplus" to the general fund to be spent at the discretion of local politicians. Proposition 218 will stop this "hidden tax" that is imposed without voter approval.

**MYTH #5: Proposition 218 imposes new taxes on public agencies.**

**TRUTH: Proposition 218 does not require any public agency to pay taxes.**

As noted by the California Supreme Court, an assessment is not a tax, but rather "is a compulsory charge to recoup the cost of a public improvement made for the special benefit of particular property." Proposition 218 will require public agencies to pay their fair share of assessments to help recoup the cost of public improvements made by another public agency. Such improvements can range from water or sewer system improvements to improvements that enhance the safety of school children.

In recognizing that public agencies have to pay their bills just like everyone else, the Legislature already requires many public agencies to pay their fair share to finance certain public improvements made by other public agencies. In 1988, the Legislature enacted, without a single negative vote,



AB 1350. This law allows public agencies to charge other public agencies their fair share of utility fees to finance various capital improvements.

Moreover, under traditional assessment law, public agencies are already liable to pay assessments. For example, under the Municipal Improvement Act of 1911, the agency imposing the assessment has the discretion to charge other government entities. In short, this requirement is nothing new and merely reflects the fact that true assessments can provide benefits to public property just like they do to private property.

**MYTH #6: Proposition 218 denies voting rights to renters.**

**TRUTH: Renters responsible for paying assessments and fees are entitled to vote under Proposition 218.**

Proposition 218 expressly permits renters to vote on assessments and fees if the renter is directly liable to pay the assessment or fee in question. Under current law, renters have no such constitutional right to vote. In addition Proposition 218 allows renters to vote on all tax measures provided they are registered to vote. Renters also benefit from the fee protection provisions of Proposition 218, which will help give renters relief from high utility bills. Overall, renters acquire numerous rights and protections under Proposition 218 that they do not enjoy under current law.

**MYTH #7: Proposition 218 increases government costs by forcing local agencies to hold elections that are currently not required.**

**TRUTH: The election requirements under Proposition 218 are triggered when local politicians decide that they want to raise taxes and assessments.**

The election requirements under Proposition 218, which serve to protect taxpayers, are triggered when local politicians make a discretionary policy decision to impose a particular revenue source. In making that discretionary decision, local politicians will consider such factors as the likelihood of a successful election, the cost of the election versus the amount of revenue generated, and whether alternative options are available. For successful elections, the election costs are normally recovered from the proceeds of the tax or assessment that was approved.

Opponents of Proposition 218 also contend that all assessments will require annual reapproval by property owners. This is simply not true. Even the local governments' own experts agree that, as long as the assessment rates do not increase, then annual approval by the property owners is not necessary. Only increases in the assessment are subject to the approval process.





# How Proposition 218 "The Right to Vote On Taxes Act" Works

## LOCAL TAXES, ASSESSMENTS AND FEES

### UNDER CURRENT LAW

### UNDER PROPOSITION 218

#### General Taxes

General taxes are levied to raise money for the general fund to be used for a wide variety of purposes at the local level. Examples of taxes usually classified as general are utility taxes, business licenses, real estate transfer taxes and hotel taxes.

Not all cities are the same in California. Charter cities, such as Los Angeles, Sacramento and San Jose can impose general taxes by a simple vote of the city council. General law cities are required to obtain a majority vote of the people.

Proposition 218 makes the imposition of taxes the same for everyone. No matter where you live in California, it will require a majority vote of the people to increase any general tax in any city or county. See Note 1).

#### Special Taxes

Special taxes are levied for a specific purpose. Some examples are special parcel taxes or local sales taxes which go to pay for roads or light rail, or to supplement libraries or police.

Currently all local governments must get a 2/3 vote of the people to pass special taxes.

Proposition 218 simply restates existing law.

#### Assessments

Assessments or "benefit assessments" are additional taxes imposed on property owners for services which are supposed to benefit their property. Street lights and street improvements paid for by a "Landscape and lighting" district tax is one example.

At least 20 different state laws affect assessments. Most assessments are imposed by a simple vote of the local taxing agency or city council after public hearing. A 50% protest is needed to stop new assessments; large property owners get larger votes.

Under Proposition 218 the rules for "assessments" are the same throughout the state. The improvement to be provided must benefit the property and only goes into effect if approved by 50% of those owners voting by mail. Voting is proportional. See Note 2).

#### Fees and Service Charges

These charges to property owners are usually paid monthly for direct services to property like street sweeping fees. Lately parcel charges have been imposed to pay for non-property related services.

Currently these fees and charges can be increased by a vote of the local taxing agency following a hearing. In some cases, these fees supplement general fund expenditures by cities and counties.

Proposition 218 requires 2/3 voter approval or majority approval by property owners to increase these fees. It also requires that fees not exceed the cost of the service provided. Water, sewer and garbage collection fees are exempted from voter approval.

- 1) To stop a rush to approve taxes prior to its passage, Proposition 218 requires voters to approve all new or increased taxes imposed after January 1, 1995.
- 2) The proportional vote provisions give those who benefit more a larger vote or put another way "those who will pay more" get a larger proportional vote.

PROP 218 is Sponsored by the Howard Jarvis Taxpayers Association with Paul Gann's Citizens Committee and The Alliance of California Taxpayers and Involved Voters



## THE ASSESSMENT PROCESS UNDER CURRENT LAW COMPARED TO THE ASSESSMENT PROCESS UNDER PROPOSITION 218

ASSESSMENT PROCESS COMPARISON	ELECTION REQUIRED?	WHO PARTICIPATES IN PROCESS?	METHOD OF WEIGHTING PROTESTS / BALLOTS	STANDARD TO BLOCK ASSESSMENT (BALLOTTY PROTEST)	COMMENTS
<p><b>ASSESSMENT PROCESS UNDER CURRENT LAW (Landscaping and Lighting Act)</b></p>	<p>NO ELECTION IS REQUIRED. However, property owners subject to the proposed assessment may file a written 'PROTEST' against the assessment with the local agency. The local agency is NOT required to supply a protest form.</p>	<p>Only PROPERTY OWNERS may file a protest. This includes <i>nonresidential</i> property owners. Renters may not protest an assessment.</p>	<p>Protest are WEIGHTED according to the AREA OF ASSESSABLE LAND (size of the parcel).</p>	<p>The local agency cannot levy the assessment if written protests filed represent property owners owning more than 50% of the TOTAL area of assessable lands within the proposed assessment district.</p>	<p>Under current law, if a property owner does not file a written protest (i.e., does nothing), it is counted as though the owner SUPPORTS the assessment. This inquiry makes it NEARLY IMPOSSIBLE to block an assessment.</p>
<p><b>ASSESSMENT PROCESS UNDER PROPOSITION 218 (The Right to Vote on Taxes Act)</b></p>	<p>AN ELECTION IS REQUIRED. The local agency mails out ballots to those eligible to vote.</p>	<p>All Property Owners subject to the assessment may vote. Renters may vote if directly liable to pay the assessment.</p>	<p>Ballots are WEIGHTED according to the AMOUNT OF ASSESSMENT PAID.</p>	<p>The local agency cannot levy the assessment if more than 50% of those SUBMITTING ballots oppose the assessment.</p>	<p>Under Proposition 218, if a property owner does not submit a ballot (i.e., doesn't vote), it counts neither for nor against the proposed assessment. The outcome is based only on those ballots actually SUBMITTED. This is a more reasonable standard which will make it easier to block an assessment.</p>

# The Assessment Process Under Current Law Compared to the Assessment Process Under Proposition 218 — An Example

## Example of a Proposed Property Assessment

City X proposes to levy a street lighting assessment under the Landscaping and Lighting Act. The size of the proposed assessment district is 10,000 acres, consisting of 25,000 parcels of property.

## The Assessment Process Under Current Law

City X must hold at least one public meeting and public hearing on the proposed assessment. Notice of the proposed assessment must be given by mail to the 25,000 property owners subject to the proposed assessment.

NO election is required. However, property owners subject to the proposed assessment may file a written protest against the assessment, but City X is *not* required to provide a protest form. City X must abandon the proposed assessment if there is a majority protest. A majority protest exists if, upon the conclusion of the public hearing, written protests filed represent property owners owning more than 50 percent of the *total* area of assessable lands within the proposed assessment district. In the example, this corresponds to the 5,000 acres of assessable lands within the proposed district (an *absolute* majority of the 10,000 acre size of the district).

Only *property owners* may file a written protest against the assessment. This *includes* nonresident property owners. Renters have *no* right to file a protest. Each protest is *weighted* according to the *size of the parcel*, without regard to the amount of assessment paid or the use of the property. Under current law, if a property owner does not file a written protest, it is counted as though the owner *supports* the assessment. This inequity makes it *extremely difficult* to legally block an assessment.

## The Assessment Process Under Proposition 218 (The Right to Vote on Taxes Act)

City X must hold at least one public hearing on the proposed assessment. Notice of the proposed assessment must be given by mail to the 25,000 property owners subject to the proposed assessment.

An election is *required*. City X must include a ballot on the proposed assessment with the mailed notice. City X must abandon the proposed assessment if there is a majority protest. A majority protest exists if, upon the conclusion of the public hearing, a majority of those *submitting* ballots oppose the assessment. Ballots are weighted according to the amount of assessment owed by each parcel (rather than by the size of the parcel under the current protest procedure).

Property owners and renters directly liable to pay the proposed assessment may cast ballots. As is the case under current law, nonresident property owners may participate. If a property owner does not submit a ballot, it counts neither for nor against the proposed assessment, which is consistent with standard voting practice. The determination of majority protest is based only on those ballots actually *submitted*. This is a more reasonable standard which will make it easier to block an assessment.





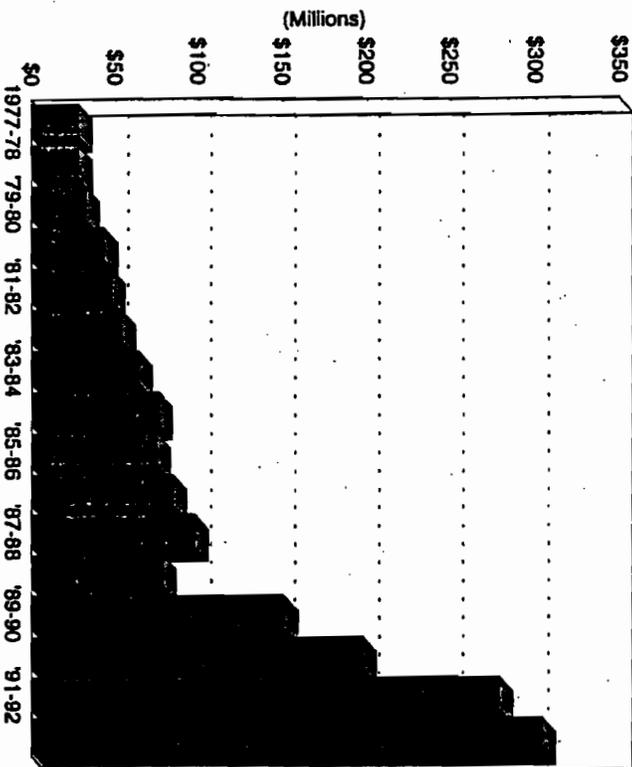
## HOW RENTERS BENEFIT UNDER PROPOSITION 218 COMPARED TO CURRENT LAW

HOW RENTERS COMPARE	TAXES	FEES AND CHARGES	PROPERTY ASSESSMENTS	USE OF INITIATIVE POWER
<p style="text-align: center;"><b>UNDER CURRENT LAW</b></p>	<p>Cities with their own governing charter currently levy many taxes, like utility user taxes, <b>WITHOUT VOTER APPROVAL</b>. About half of all Californians live in charter cities.</p>	<p>Many local agencies impose utility fees and charges that are excessive, resulting in unnecessarily high utility bills. Many renters have been hit hard by these high fees and charges.</p>	<p>Renters generally have <b>NO RIGHT</b> to protest an assessment. Only property owners, including <i>nonresident</i> property owners, may legally protest an assessment.</p>	<p>Taxpayers, including renters, have very limited ability to use the initiative power to reduce or repeal local taxes, assessments, fees, or charges.</p>
<p style="text-align: center;"><b>UNDER PROPOSITION 218 (The Right to Vote on Taxes Act)</b></p>	<p>Voter approval is required for ALL taxes imposed by ALL local governments. This covers all new taxes and tax increases. All registered voters, including renters, may vote in tax elections.</p>	<p>Strict limitations are placed on many fees and charges, including utility fees and charges for water, sewer, and refuse collection services. Renters will benefit from the expected <i>reduction</i> in utility fees and charges resulting from these limitations.</p>	<p>Any person, <b>INCLUDING RENTERS</b>, may vote if they are directly liable to pay an assessment.</p>	<p>Provides that taxpayers, including renters, may use the initiative power to reduce or repeal <b>ANY</b> local tax, assessment, fee, or charge. Taxpayers will no longer be at the mercy of local politicians if they believe a local tax, assessment, fee or charge is either too high or unnecessary.</p>



# City Benefit Assessments: Growth Since 1977-78

Year	Collections	Percent Increase
1977-78	28,259,364	---
'78-79	28,496,585	0.84%
'79-80	32,457,145	13.90%
'80-81	43,686,988	34.60%
'81-82	47,827,127	9.48%
'82-83	54,416,049	13.78%
'83-84	64,368,146	18.29%
'84-85	76,751,973	19.24%
'85-86	75,640,964	-1.45%
'86-87	85,197,083	12.63%
'87-88	98,404,883	15.50%
'88-89	79,024,889	-19.69%
'89-90	151,774,033	92.06%
'90-91	198,500,962	30.79%
'91-92	279,266,946	40.69%
'92-93	304,064,960	8.88%



Average Percent Increase  
 Total 15-Year Increase (Dollars) \$275,805,596  
 Total 15-Year Increase (Percent) 976%

Assessments 19%  
 Inflation 6%  
 Population 2%

\* 1988-89 revenue appears to be in error because Los Angeles failed to report about \$30 million in assessments that year.

Source: California Taxpayers' Association from State Controller's Office publications: "Financial Transactions Concerning Cities."

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**PROP. 218 -- THE "RIGHT TO VOTE ON TAXES" INITIATIVE:  
RESTRICTIONS ON LOCAL GOVERNMENT FINANCE**

**Michael G. Colantuono, Esq.\***

**Testimony Before  
Joint Interim Hearing of the  
Senate Local Government and Revenue & Taxation Committees  
September 24, 1996  
Sacramento, California**

**THE IMPACT ON TAXES**

1. *Application of Proposition 62 to Charter Cities.*

Currently, Government Code provisions enacted by Proposition 62 require general taxes of cities and counties to be approved by vote of the electorate. It is unclear whether Proposition 62 applies to charter cities, although most public attorneys have concluded that it does not. § 1(b) of the proposed Article XIII C of the California Constitution includes charter cities in the definition of the "local governments" covered by the initiative. Therefore, charter cities would become subject to the rules of Proposition 62 and general law cities would not be able to adopt charters to avoid those rules.

\* I would like to acknowledge the contributions of my colleagues Robin Harris and Rubin Weiner to this paper's discussion of assessments and Larry Wiener's contributions to the discussion of fees.

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2. *Broader Definition of "Special Tax."*

§ 1(d) broadens the definition of "special tax" to include:

"any tax imposed for specific purposes including taxes imposed for specific purposes which are placed into a general fund."

Current law allows those who support local taxes to make promises as to uses of the proceeds of a tax, without converting the tax into a special tax and without triggering the two-thirds vote requirement, if the taxes are placed in the general fund and are not legally (as opposed to politically) restricted to a specific purpose. § 1(d) of this initiative appears to be intended to limit the ability of local governments to tie proposed general taxes to specific public concerns such as law enforcement, parks, libraries, etc., but may prove to be of limited legal force.

3. *"Special Purpose Districts" Could Not Impose General Taxes and Would Require Two-Thirds Voter Approval of All Taxes.*

§ 2(a) provides that "Special purpose districts or agencies, including school districts, shall have no power to levy general taxes." This point would have significant impact on special purpose entities, as special taxes require two-thirds approval and have been approved only occasionally since the passage of Proposition 13. Because the term "special districts" is not used, this language appears to apply only to single-purpose agencies and not to multi-purpose special districts. Therefore, to some extent this provision merely restates the rule of *Rider v. County of San Diego*.

4. *Constitutionalization of Proposition 62 and Limit on Tax Elections.*

§ 2(b) moves Proposition 62's statutory requirement for voter approval of general taxes into the State Constitution and provides that:

"The election [to approve a general tax] required by this subdivision shall be consolidated with a regularly scheduled general election for members of the governing body of the local government except in cases of emergency declared by a unanimous vote of the governing body."

As regularly scheduled city council and board of supervisors elections in most cities and counties are held only every two years, this provision



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obviously limits the flexibility of local government to respond to changes in the economic climate or the state budget. The initiative power described in point 6 below appears to provide another means to call a special election on a general tax.

5. *Required Validation of 1995-96 Window Period Taxes.*

§ 2(c) provides:

"Any general tax imposed, extended or increased, without voter approval, by any local government on or after January 1, 1995, and prior to the effective date of this Article, shall continue to be imposed only if approved by a majority vote of the voters voting in the election on the issue of the imposition, which election shall be held within two years of the effective date of this Article and in compliance with subdivision (b) of this section."

If adopted, this section might obviate the need to determine whether or not the California Supreme Court's 1995 *Guardino* decision retroactively invalidates taxes imposed between January 1, 1995 and December 14, 1995, limiting the retroactivity issue to taxes adopted between November 1986 and the end of 1994. It authorizes the collection of such taxes if approved by the voters within two years' time, and may impliedly authorize the collection of those taxes until the tax is defeated at the polls. It also "backdates" the initiative's effective date to January 1, 1995.

Retroactive application of the initiative raises significant constitutional issues and will likely be held inapplicable where it would violate the Contracts Clause of the federal constitution, as by impairing revenues pledged for the payment of bonds.

6. *Referenda and Initiatives on Taxes and Other Revenue Measures.*

§ 3 supersedes existing provisions of the State Constitution by expressly authorizing initiatives:

"in matters of reducing or repealing any local tax, assessment fee or charge. The power of initiative to affect local taxes, assessments, fees and charges shall be applicable to all local governments."



To some extent, this provision constitutionalizes the recent decision of the Supreme Court in *Rossi v. Brown*, which upheld a San Francisco initiative that repealed a tax. It goes further than that, however, as it extends the initiative power to assessments, fees, and charges, which had previously been considered administrative rather than legislative matters, and therefore beyond the initiative power. Some bond attorneys view this as the single most significant feature of the initiative in terms of its impact on the ability of local governments to borrow money.

## THE IMPACT ON FEES

### 1. *Definition of "Fee."*

The measure defines "fee or charge" in proposed Article XIID, § 2(e) of the California Constitution as:

"any levy other than an ad valorem tax, a special tax or an assessment, imposed by an agency upon a parcel or upon a person as an incident of property ownership, including user fees or charges for a property related service."

While there is some uncertainty regarding whether this definition includes fees for utility services, we conclude that this definition does not include non-property-related services fees, rental fees, and regulatory fees. The measure expressly excludes development fees. Instead, we conclude the measure covers fees imposed on property or "as an incident of property ownership," i.e., it covers fees which function much like assessments. It appears intended to prevent a local government from avoiding the assessment and tax rules of the measure by recharacterizing a tax or an assessment as a fee or a charge. Therefore, it applies only to a small class of fees.

### 2. *Restrictions on "Fees and Charges."*

- a. The revenues from a property-related fee may not exceed the funds required to provide the service.
- b. The revenues derived from a property-related fee may not be used for any purpose other than that for which the fee is imposed.



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- c. The amount of a property-related fee may not exceed the proportional cost of the service attributable to the parcel on which the fee is imposed. This could restrict the use of "life-line" rates and similar subsidy programs that are financed by user fees.
- d. No property-related fee may be imposed for a service unless that service is actually used by, or immediately available to, the owner of the property in question. Standby charges must be adopted and implemented as assessments under the rules noted below.
- e. No property-related fee may be imposed for general governmental services including, but not limited to, police, fire, ambulance, and library services, where the service is available to the public at large in substantially the same manner as it is to property owners.

3. *Procedural Restrictions Imposed on "Fees and Charges."*

- a. Notice and hearing requirements are placed in the state Constitution for new or increased fees and charges.

Article XIID, Section 6(a)(1) requires mailed notice to affected property owners of "the amount of the fee or charge proposed to be imposed on each [parcel], the basis upon which the amount of the proposed fee or charge was calculated, the reason for the fee or charge, together with the date, time, and location of a public hearing on the proposed fee or charge." The cost of such notices may be considerable, especially where a fee is applicable to a large number of parcels.

Section 6(a)(2) requires a public hearing 45 days after the notice is mailed and provides that "[i]f written protests against the proposed fee or charge are presented by a majority of owners of the identified parcels, the agency shall not impose the fee or charge."

- b. Voter approval is required for new or increased fees and charges:

"Except for fees or charges for sewer, water, and refuse collection services, no property related fee or charge shall be imposed or increased unless and until such fee or charge is submitted and approved by a majority vote of the property owners of the property subject to the fee or



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charge or, at the option of the agency, by a two-thirds vote of the electorate residing in the affected area."

- c. Thus, except for sewer, water and refuse fees, both a noticed hearing subject to majority protest and an election are required and the process will require a minimum of 90 days from the date the initial notices are mailed.

**THE IMPACT ON ASSESSMENTS**

1. *Restrictions on "Assessments"*

- a. Local agencies must mail notice to all property owners prior to levying any assessment. Mailed notice must include a ballot. At the public hearing, if more returned ballots (weighted by the amount of the proposed assessment) are against the assessment than are in favor, the assessment may not be levied.

- Overrides published notice exception of Brown Act.
- Allows vocal minority to overrule silent majority.
- Provides for majority protest calculation which is inconsistent with the existing majority protest calculation of various assessment acts (e.g. majority of area (1972 Act), majority of registered voters (1982 Act)).

- b. Local agencies must distinguish between general and special benefit and *only* assess for special benefit. The allocation of costs must be supported by a report of a licensed professional engineer. Local agencies bear the burden of demonstrating that the amount of the assessment against each parcel is proportional to the special benefit received by the parcel.

- Will likely require contributions from General Fund or other sources for portion allocated to "general benefit."
- Will likely result in litigation over what constitutes "special benefit" and over what allocation is "proportional."
- Will increase risk that local agencies will lose such litigation.



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- c. Local agencies may not exclude public property from assessments unless they can show by "clear and convincing evidence" that the publicly-owned parcels receive no special benefit.
- Although this provision will abrogate the state-law doctrine of intergovernmental immunity, federal agencies can be assessed only if they have entered into leases which obligate them to pay assessments imposed on their landlords or if another exception to the federal doctrine applies. In addition, some existing statutes require an agency which imposes an assessment on another government agency to pay the assessment itself.
  - Agencies which are obliged to pay assessments imposed by other agencies will have the right to vote on the imposition of the assessment.

2. *Exemptions for Certain Assessments Existing on November 6, 1996.*

The following exemptions only apply to assessments existing on November 6, 1996. Subsequent increases will not be exempt.

- a. "Any assessment imposed exclusively to finance the capital costs or maintenance and operation expenses for sidewalks, streets, sewers, water, flood control, drainage systems or vector control."

This exemption appears to exempt multi-year assessments levied for maintenance purposes; however, it may not exempt maintenance assessments which must be levied on an annual basis.

- b. "Any assessment imposed pursuant to a petition signed by the persons owning all of the parcels subject to the assessment at the time the assessment is initially imposed."

This exemption exempts assessment an district formed prior to November 6, 1996 at the request of a developer who owns all of the property within the proposed district; however, it will not be available to developers after November 1996. Developers will be able to rely on Mello-Roos financing, as that statute is unaffected by Proposition 218.

- c. "Any assessment the proceeds of which are exclusively used to repay bonded indebtedness of which the failure to pay would violate the



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Contract Impairment Clause of the Constitution of the United States of America."

This exemption appears to protect all bonded indebtedness secured by assessments. While it does not expressly protect other forms of indebtedness, such as notes, certificates of participation, etc., those forms of indebtedness will be protected by the federal Constitution.

- d. "Any assessment which previously received majority voter approval from the voters voting in an election on the issue of the assessment."

This exemption appears to exempt all assessments approved by voters prior to November 6, 1996; however, it does not appear to allow resident taxpayers to overrule a protest by property owners in the future. It is possible that the initiative and referendum provisions discussed above will alter this result, however.

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**11 REASONS SMALL GOVERNMENT CONSERVATIVES SHOULD  
OPPOSE PROP. 218 -- THE "RIGHT TO VOTE ON TAXES ACT"**

**Michael G. Colantuono, Esq.**

**California Lincoln Club  
San Gabriel Valley Chapter  
September 20, 1996  
Industry, California**

1. Transfer of Power To Sacramento. The measure would make it very difficult for local communities to raise revenue to provide police, fire, and other essential services. Only the State Government would have power to impose a tax without a vote of the people. This will make local communities dependent on Sacramento's largesse and will transfer local decision-making to Sacramento and the interest groups with influence there. California's public schools are a good example of this: because the only local revenues available to schools require a two-thirds vote, schools are dependent on Sacramento and most school policy is made in Sacramento under the influence of statewide groups such as teachers' unions.

2. Shift of Power from Voters to Landowners. The proposed Article XIID, § 4 grants the right to vote on local assessments only to property owners, and in proportion to the amount of the assessment each would pay. Instead of one voter, one vote, this system gives large landowners large votes; ordinary homeowners, small votes; and most renters, no votes. Votes will be granted to all landowners, whether or not they are citizens, and votes would be exercised by foreign corporations and state and federal government agencies. Should the Los Angeles Department of Water and Power have 60% of the voting power on Mono County assessments simply because it owns 60% of the assessed valuation of land in that county? While some assessment statutes operate this way now, Prop. 218 places

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this system in the State Constitution and imposes it on all assessments. Under Prop. 218, votes are denied to millions of California renters, but granted to foreign corporations.

3. Elimination of "Lifeline" and Conservation Rates. Article XIID, § 6(b)(3) requires property-related fees to be calculated solely with respect to the cost of providing service to property. Fee systems that accomplish other important social goals, like subsidizing the elderly, poor, and infirm, and encouraging conservation in the use of water and in the generation of sewage and solid waste, would be forbidden.

4. Ban on User Fees for Police, Fire and Libraries. Article XIID, § 6(b)(5) would impose a flat ban on user fees for police, fire and library services. Why eliminate a funding source for these core government functions? Weren't user fees what we had in mind when we adopted Prop. 13 to limit property taxes?

5. Elimination of Funding for Real Estate Development. The measure will have serious consequences for California's real estate industry, a key economic sector still struggling to escape the doldrums of the early 1990's. Although Article XIID, § 5(b) was apparently intended to allow developers to consent to the establishment of assessment districts to finance improvements on their properties, a drafting error eliminates that funding source after November 1996. The loss of this tax-exempt financing will seriously affect real estate development and raise the cost of housing and commercial and industrial properties.

6. The Measure Will Undermine the Bond Industry. The general effect of the measure will be to undermine the credit-worthiness of California's local governments. That credit risk will raise the cost of borrowing, make the delivery of local services more expensive, and increase risk to the bond industry and the many senior citizens and other investors who rely on bonds to provide safe, secure returns on investment. Article XIIC, § 3 allows initiatives and referenda to repeal local taxes and fees. This creates great uncertainty for local officials, for a budget balanced when adopted can be thrown out of balance by an initiative. This creates substantial credit risk and may make general obligation bonds unsalable for many communities.

7. The Measure Imposes Very High Costs for Unnecessary Notices and Hearings. The proponents criticize the majority protest rule of some existing assessment statutes that requires an absolute majority of affected property owners to file written protests to stop an assessment. They claim, correctly, that majority participation on one side of an issue is very difficult to achieve and rarely accomplished. Yet they impose that empty procedure on property related fees, and require individually mailed notice (at substantial cost), a 45-day delay, a normally meaningless protest hearing, another 45-day delay, and a mailed ballot election (Article XIID, § 6(a) & (c)). If an election is required, why impose the useless cost of a protest hearing? Article XIID, § 4 will require annual elections to validate assessments even if those assessments remain at the same level or are reduced.



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Should we really be spending our tax money on expensive notices for meaningless hearings? Do we really need to pay for an annual election to determine whether to pay the electric bill for the street lamps? Article XIID, § (b) provides that all assessments must be supported by the report of a licensed, professional engineer. Is the expense of an engineering consultant necessary to calculate the cost of fire trucks and firefighters? Couldn't the Fire Chief handle this?

8. The Measure is Poorly Drafted and Will Require Costly Litigation to Clarify its Meaning. The measure contains numerous drafting errors and ambiguities that make interpreting and applying it difficult. To give one example, the measure defines the term "special district" but elsewhere uses the undefined term "special purpose district" (Article XIIC, §§ 1(c), 2(a)). Are these two the same? We don't know. Drafting errors like this will doubtless lead to litigation and waste tax dollars to decide issues that could have been answered by more careful drafting.

9. Requiring the Inclusion of Public Property in Assessment Districts is Unnecessary and Costly. Article XIID, § 4(a) requires the inclusion of public property in assessment districts under most circumstances. Isn't this an expensive way to shift money from the taxman's left pocket to his right pocket? Should we divert dollars from schools to cities and counties?

10. The Practical Ban on Standby Fees Transfers Costs to Homeowners and Will Harm the Economy. Many water and sewer providers impose "standby fees" on vacant property to reflect the fact that excess capacity makes those properties developable and more valuable. Practically banning these fees, as Article XIID, § 6(b)(4) would do, will require utilities to recover the lost revenue from utility consumers. This transfers costs from developers and real estate investors to ordinary homeowners. In addition, it creates a disincentive to the development and maintenance of excess capacity. (Imagine the outraged citizen activist: "Why should we pay for a bigger sewage plant to benefit outsiders?") Without that excess capacity, there cannot be economic growth.

11. Banning Special Tax Elections is a Triumph of Politics Over Policy. Article XIIC, § 2(b), with very limited exceptions, forbids local officials to propose a general tax for voter approval except on a ballot which includes a race for a seat on the City Council, Board of Supervisors, or other local board. The Howard Jarvis Taxpayers Association admits that this provision was intended to generate "wedge" issues and to create favorable conditions for the election of anti-tax local officials. The price communities pay for this political victory is high: local budgets are greatly influenced by annual decisions in the State budget and by the business cycle, neither of which can be expected to generate the need for new revenues only at two-year intervals when offices are contested. Is this small political advantage worth imposing a fiscal strait-jacket on our communities?



**TESTIMONY OF BARBARA STECKEL**

**SEPTEMBER 24, 1996**

MY NAME IS BARBARA STECKEL AND I AM THE FINANCE DIRECTOR AND TREASURER FOR THE CITY OF RIVERSIDE. I HAVE HELD THAT POSITION FOR 8 YEARS. BEFORE I GO ANY FURTHER, I WANT TO CLARIFY THAT I AM NOT TESTIFYING FOR OR AGAINST PROPOSITION 218, I AM HERE TO PROVIDE INFORMATION ON THE POTENTIAL IMPACTS TO THE CITY OF RIVERSIDE AS WE HAVE IDENTIFIED THEM.

WHEN WE FIRST READ THE PROPOSITION, WE DIDN'T FEEL THAT THERE WOULD BE A GREAT DEAL OF IMPACT, BUT AS WE HAVE CONTINUED TO WORK WITH IT AND ATTEMPTED TO UNDERSTAND THE DIFFERENT SECTIONS BETTER, WE REALIZE NOW THAT THE POTENTIAL IMPACT IS FAR GREATER THAN WE HAD ORIGINALLY ANTICIPATED. THE BUDGETED GENERAL FUND EXPENDITURES OF OUR CITY FOR 1996/97 ARE JUST UNDER \$107,000,000. OF THAT AMOUNT, 57% OR \$61,000,000 IS FOR POLICE AND FIRE SERVICES. AT THIS TIME, THE POTENTIAL IMPACT ON THE GENERAL FUND IS \$10,055,000, OR 9.4% OF THE TOTAL CITY BUDGET. LET ME GO OVER EACH OF THE AFFECTED ITEMS THAT WE HAVE IDENTIFIED:



● **STREET LIGHT ASSESSMENT DISTRICT** - THIS DISTRICT WAS FORMED IN 1988 UNDER THE 1972 LANDSCAPING AND LIGHTING ACT. WE HAVE BEEN COLLECTING THE ASSESSMENT EACH YEAR SINCE THEN. THE DISTRICT WAS NOT PLACED ON THE BALLOT WHEN IT WAS IMPLEMENTED. WHEN RESIDENTS QUESTIONED WHAT THEY WERE PAYING FOR, WE EXPLAINED THAT THEY WERE NOT PAYING FOR JUST THE STREET LIGHT BY THEIR PROPERTY, BUT THEY WERE SHARING IN THE COSTS OF THE LIGHTS THROUGHOUT THE CITY BECAUSE WE ALL BENEFIT FROM THOSE LIGHTS AS WE DRIVE DOWN THE STREETS. THE CURRENT RATE PER RESIDENTIAL PARCEL IS **\$31.44 PER YEAR**. DURING 1995/96 A TOTAL OF \$2.9 MILLION WAS COLLECTED; THIS IS STILL SLIGHTLY UNDER THE TOTAL ACTUAL COST OF \$3.2 MILLION FOR OPERATING AND MAINTAINING THE STREET LIGHTS. AFTER ANALYZING THE REQUIREMENTS OF PROPOSITION 218 REGARDING THE GENERAL AND SPECIFIC BENEFIT TO PARCELS, THE ESTIMATED COSTS FOR THE ENGINEER TO DEVELOP THE NEW RATES, THE REQUIREMENT TO CHARGE ALL THE GOVERNMENTAL AGENCIES, WHICH THE COUNTY DOES NOT ISSUE TAX BILLS TO, IT DOES NOT APPEAR COST EFFECTIVE TO GO THROUGH AN ELECTION PROCESS. ACCORDING TO INFORMATION FROM THE COUNTY, ABOUT 32% OF THE PARCELS WITHIN RIVERSIDE ARE OWNED BY ENTITIES OUTSIDE THE CITY, ADDITIONALLY, 22-25% OF THE PARCELS WITHIN RIVERSIDE ARE OWNED BY VARIOUS GOVERNMENTAL AND NON PROFIT ENTITIES WHICH ARE NOT, ACCORDING TO CURRENT LAW AND POLICY, CURRENTLY PAYING THE ASSESSMENT. IF WE HELD AN ELECTION, WE ASSUME THAT THE GOVERNING



BODY OF EACH OF THESE ENTITIES WOULD HAVE TO MAKE A DETERMINATION ON HOW THEY WERE GOING TO VOTE ON THE ASSESSMENT AND THAT IT WOULD NOT BE UP TO A STAFF MEMBER FROM THE ENTITY TO MAKE THAT DECISION. HOWEVER, TRYING TO CONTINUE TO COLLECT THE STREET LIGHT ASSESSMENT DISTRICT BY HOLDING AN ELECTION DOES NOT APPEAR VIABLE AT THIS TIME.

● MISCELLANEOUS LANDSCAPING MAINTENANCE DISTRICTS -WE HAVE 5 LANDSCAPE MAINTENANCE DISTRICTS OF VARYING SIZE AND PURPOSE. WE ARE ONLY COLLECTING ABOUT \$60,000 FROM THESE IN TOTAL NOW, BUT THE IMPROVEMENTS IN ONE ARE STILL NOT COMPLETED AND IT WAS ANTICIPATED THAT THE ASSESSMENTS WOULD INCREASE IN THAT DISTRICT WHEN THEY WERE COMPLETED. ONE OF THE DISTRICTS WAS IN FACT REQUESTED BY THE OWNERS AND HAS 475 PARCELS, BUT WE ARE ONLY COLLECTING ABOUT \$10,000 ANNUALLY. UNFORTUNATELY, WE DO NOT HAVE 100% WRITTEN EVIDENCE OF LANDOWNER APPROVAL. ALL PROPERTIES ARE CURRENTLY PAYING THE SAME AMOUNT. TRYING TO DEFINE THE SPECIFIC BENEFIT TO EACH OF THE PARCELS AS THE DISTANCE FROM THE MEDIAN INCREASES WILL BECOME VERY DIFFICULT AND PROBABLY CREATE DISSATISFACTION AMONG THE PROPERTY OWNERS SINCE THEY ALL WOULD THEN BE PAYING DIFFERENT AMOUNTS. ADDITIONALLY, THE COST OF THE ELECTION COULD BE PROHIBITIVE BECAUSE OF THE LARGE NUMBER OF PARCELS AND WOULD JUST BE AN ADDED COST.



● **BUSINESS TAX-** THE CITY'S BUSINESS TAX CODE HAD NOT BEEN UPDATED SINCE IMPLEMENTATION IN 1972. DURING 1992 AND 93, WE WENT THROUGH A COMPLETE REVISION AND INCORPORATED A CPI INCREASE ANNUALLY SO THAT THE RATES WOULD NOT BECOME OUTDATED AND THE BUSINESSES HAVE TO DEAL WITH A LARGE INCREASE SOMETIME DOWN THE LINE. IN NOVEMBER 1995, OUR FIRST CPI INCREASE WAS IMPLEMENTED. FOR THE FIRST 12 MONTH PERIOD THE INCREASE WILL ONLY BE ABOUT \$50,000 OF THE TOTAL \$2.6 MILLION COLLECTED. WHAT REALLY HAS TO GO ON THE BALLOT, THE BUSINESS TAX ITSELF, OR JUST THE INCREASE? SECTION 2 C OF PROP-218 REFERS TO AN ELECTION ON THE "IMPOSITION", WHICH I HOPE REFERS ONLY TO THE INCREASE AND NOT THE IMPOSITION OF THE BUSINESS TAX AS A WHOLE, BUT SINCE THERE IS SOME QUESTION, WE HAVE IDENTIFIED THE ENTIRE 2.6 MILLION AS A POTENTIAL IMPACT.

● **GENERAL FUND TRANSFER FROM THE WATER UTILITY -** THE VOTERS OF THE CITY OF RIVERSIDE APPROVED THE ORIGINAL CHARTER IN 1907. AFTER A VOTER APPROVED AMENDMENT IN THE 70'S, AN AMOUNT UP TO 11.5% OF THE WATER AND ELECTRIC REVENUES COULD BE TRANSFERRED TO THE GENERAL FUND. THIS TRANSFER CAN BE CONSIDERED A RETURN TO THE SHAREHOLDERS, PAYMENT IN LIEU OF TAXES, OR ANYTHING THAT YOU WISH TO CALL IT, BUT THE VOTERS APPROVED IT. UNDER SECTION 6 (B) (1) AND (2) OF THE INITIATIVE, IT DOES NOT APPEAR THAT THE \$2.2 MILLION COULD BE TRANSFERRED TO THE



GENERAL FUND.

● **REFUSE FRANCHISE FEES** - THE CITY OF RIVERSIDE PROVIDES RESIDENTIAL SOLID WASTE COLLECTION SERVICE BUT HAS CONTRACTED WITH THE PRIVATE SECTOR FOR PROVIDING COMMERCIAL SERVICE FOR OVER 20 YEARS. THESE CONTRACTS INCLUDE A FRANCHISE FEE FROM THE HAULERS AND HAVE FOR AS FAR BACK AS WE CAN FIND. IN 1995/96, THE GENERAL FUND RECEIVED A NET FEE OF \$1,100,000 FROM THE REFUSE HAULERS. ALTHOUGH WE ARE NOT PROVIDING THE COMMERCIAL SERVICE, THE CITY IS SETTING THE RATES. IF THAT MEANS THAT WE CANNOT COLLECT THE FRANCHISE FEE, THERE WOULD BE AN ADDITIONAL LOSS OF \$1,100,000 TO THE GENERAL FUND.

● **STREET LIGHT FEE** - OVER 25 YEARS AGO STREET LIGHTS WERE INSTALLED IN VARIOUS DISTRICTS AROUND THE CITY. A VERY MINIMAL CHARGE OF 10 CENTS TO ONE DOLLAR PER MONTH WAS ADDED TO THE UTILITY BILLS. THE CHARGES WERE TO LAST UNTIL THE ENTIRE COST OF INSTALLATION WAS PAID OR A MAXIMUM OF 25 YEARS, WHICHEVER CAME FIRST. SOME DISTRICTS HAVE PAID OFF, BUT WE STILL HAVE 9 DISTRICTS PAYING. WE ANTICIPATE \$70,000 IN 1996/97. SINCE THESE APPEAR TO BE PROPERTY-RELATED FEES AND HAVEN'T BEEN VOTED ON, WE WOULD NOT BE ABLE TO CONTINUE COLLECTING THEM.

● **GENERAL PLAN SURCHARGE** - EACH YEAR THE CITY GOES THROUGH A



COMPLETE ANALYSIS OF ALL THE FEES AND CHARGES FOR SERVICES. SEVERAL YEARS AGO WE IMPLEMENTED A GENERAL PLAN SURCHARGE ON ALL OF OUR BUILDING RELATED FEES TO HELP PAY FOR THE ONGOING MAINTENANCE AND UPDATE OF OUR GENERAL PLAN. WHILE THE FEE HAS NOT NEARLY COVERED THE COSTS OF THE ONGOING UPDATE, IT DOESN'T APPEAR THAT WE COULD ADD THIS ON AS A SURCHARGE TO THE VARIOUS FEES BECAUSE IT IS "MORE THAN THE ACTUAL COST OF THAT SPECIFIC SERVICE". WE HAVE ON THE OTHER HAND, NOT BEEN ABLE TO IDENTIFY ANY OTHER WAY TO COVER THIS ONGOING CHARGE. DURING 1995/96, WE COLLECTED \$205,000, THIS AMOUNT FLUCTUATES DEPENDING ON THE AMOUNT OF BUILDING AND CONSTRUCTION GOING ON WITHIN THE CITY. WE COULD TAKE THE POSITION THAT IT ISN'T COVERED BECAUSE IT ISN'T A "PROPERTY-RELATED" FEE, BUT THERE IS AT LEAST SOME CHANCE THAT THESE REVENUES MAY BE COVERED BY THE PROPOSITION.

● **STREET REPLACEMENT CHARGE** - AS PART OF THE COMPLETE ANALYSIS OF ALL CHARGES WITHIN THE CITY, IT WAS DETERMINED THAT A SUBSTANTIAL AMOUNT OF COSTS FOR STREET WORK AND REPAIR WERE BEING DONE EACH YEAR. WE ANALYZED WHAT WAS "GENERAL TAX" WORK AND ESTIMATED THE ADDED COST FOR STREET REPAIR AND REPLACEMENT FROM THE OTHER UTILITIES AND REFUSE. BASED ON THE ESTIMATED SEWER WORK IN THE STREETS WHICH CAUSED REPAIRS AND REPLACEMENT, WE ARRIVED AT THEIR



PERCENTAGE OF THE COSTS. SINCE FISCAL YEAR 1992, WE HAVE BEEN CHARGING THE SEWER UTILITY THEIR SHARE OF THE STREET MAINTENANCE AND REPAIR. IN 1996/97 THE GENERAL FUND WILL BE REIMBURSED \$920,000 FOR THE SEWER'S SHARE OF THE STREET REPLACEMENT FEES. DUE TO THE METHODOLOGY WE ARE USING IN ARRIVING AT THIS FEE, WE WOULD LIKE TO THINK THAT IT IS ALLOWABLE, BUT IT MAY NOT BE UNDER 6 (B) 1 AND 2 OF THE PROPOSITION.

● **UNKNOWNNS** - THERE ARE MANY UNKNOWNNS THAT WE HAVE NOT INCLUDED IN OUR ESTIMATES AND WE PROBABLY WON'T KNOW THE ANSWERS FOR SURE UNTIL FURTHER INTERPRETATIONS ARE MADE. ONE OF THOSE RELATES TO FRANCHISE FEES AND COMMISSIONS. WE RECEIVE **TELEPHONE COMMISSION** -REVENUES ON TELEPHONES LOCATED IN THE DOWNTOWN AREA. A TOTAL OF ABOUT \$25,000. THERE ARE OTHER FRANCHISE FEES WHICH WE RECEIVE AND THE CITY IS NOT INVOLVED IN THE RATE SETTING PROCESS. NORMALLY THESE ARE JUST CONSIDERED A COST OF DOING BUSINESS, BUT WE AREN'T SURE WHERE THEY FALL NOW.

THERE ARE NUMEROUS NUISANCE ABATEMENTS THAT THE CITY CHARGES AND PLACES ON THE PROPERTY TAX BILLS IF NOT PAID. THESE INCLUDE: THE COSTS AND ADMINISTRATIVE FEES FOR REMOVING WEEDS, TRASH, DANGEROUS BUILDINGS, VEHICLES AND REMOVING SIGNS. THE WORDING IN THE



PROPOSITION RAISES QUESTIONS ABOUT THIS PRACTICE. WE HAVE ASSUMED THAT THEY ARE ALLOWABLE, BUT IF NOT, WE FACE THE LOSS OF RECOVERY FOR THESE SERVICES OF ABOUT \$300,000.

THE DOWNTOWN RIVERSIDE ASSOCIATION HAS A SURCHARGE ON THE BUSINESS LICENSES FOR ALL THE BUSINESSES LOCATED WITHIN A CERTAIN BUSINESS IMPROVEMENT BOUNDARY. WHILE THIS ISN'T A DIRECT REVENUE TO THE CITY, THE ASSOCIATION DOES DO A LOT OF IMPROVEMENTS IN THE DOWNTOWN AREA. DURING 1995 THE BUSINESS IMPROVEMENT DISTRICT RECEIVED \$82,000 FROM THE SURCHARGE ON THE BUSINESS LICENSES. ADDITIONALLY, THEY BENEFITED FROM THE CPI INCREASE ON BUSINESS TAX IN NOVEMBER 1995, SO IT APPEARS THERE NEEDS TO BE AN ELECTION IF THEY WANT TO CONTINUE COLLECTING THE SURCHARGE.

ANOTHER ISSUE IS THE LOCAL INITIATIVE PROCESS. NO ONE KNOWS THE REAL IMPACT, BUT YOU CAN CERTAINLY SAY IT LOOKS AS THOUGH EACH NEW TAX, AS WELL AS OUR EXISTING ONES, ARE EXPOSED TO UPSET AT ANY TIME, MAKING SOME REVENUES TOTALLY UNBONDABLE.

FOR EXAMPLE, IN ADDITION TO THE \$10 MILLION WE HAVE IDENTIFIED FOR POTENTIAL IMPACT, WHICH WE HOPE WILL BE LESS, A RESIDENT AT A MEETING LAST WEEK QUESTIONED WHY THE PROPOSITION DIDN'T GET RID OF OUR



UTILITY USERS TAX, WHICH INCIDENTALLY HAS BEEN IN PLACE FOR OVER 20 YEARS. THE ANSWER THAT SHE WAS GIVEN BY THE SPEAKER WAS THAT LOCAL TAXES WOULD NOW BE SUBJECT TO THE INITIATIVE PROCESS. THE CITY'S 96/97 BUDGET ANTICIPATES \$16 MILLION FROM UTILITY USERS TAX. SHOULD THE RESIDENTS DECIDE TO PUT AN INITIATIVE ON THE BALLOT AND ELIMINATE THE UTILITY USERS TAX, THERE IS NO WAY THAT WE COULD CONTINUE TO PROVIDE THE LEVEL OF SERVICE THE CITY OF RIVERSIDE RESIDENTS CURRENTLY EXPECT.

THE INFORMATION I'VE PROVIDED SO FAR HAS ALL BEEN THE POTENTIAL IMPACTS ON THE GENERAL FUND, WE ARE STILL DEALING WITH ISSUES RELATING TO THE INITIATIVE AND THE POTENTIAL IMPACTS ON OUR WATER, SEWER AND REFUSE FUNDS, ESPECIALLY THEIR RATE SETTING PROCESS. WE HAVE BONDS OUTSTANDING ON BOTH WATER AND SEWER AND HAVE BOND COVENANTS THAT REQUIRE CERTAIN RATES SO WE ARE NOT IN DEFAULT ON OUR BONDS. AT THIS TIME I WILL NOT GO INTO THOSE ISSUES, BUT THEY ARE OF GREAT CONCERN AS WELL.

WE HAVE SPENT MANY HOURS TRYING TO UNDERSTAND THE INITIATIVE AND THE POTENTIAL IMPACTS AS WE ARE ALREADY FACING A BUDGET SHORTFALL IN THE 97/98 FISCAL YEAR. RIVERSIDE IS A MATURE COMMUNITY AND OUR TAXES HAVE BEEN IN PLACE FOR MANY YEARS, THEY ARE NOT SOMETHING



THAT WE RAN OUT AND TRIED TO PUT IN PLACE OR INCREASE PRIOR TO THE  
ELECTION.

THANK YOU FOR ALLOWING ME TO SPEAK TO YOU TODAY. I WILL TRY AND  
ANSWER ANY QUESTIONS YOU MIGHT HAVE.

REV/TESTIMONY .



**CITY OF RIVERSIDE**  
**POTENTIAL IMPACTS FROM PROPOSITION 218**

Street Light Assessment District	\$2,900,000
Miscellaneous Landscape Maintenance Districts	60,000
Business Tax	2,600,000*
General Fund Transfer - Water Utility	2,200,000
Refuse Franchise Fees	1,100,000
Street Light Fee	70,000
General Plan Surcharge	205,000
Street Replacement Charge	<u>920,000</u>
Total	<b>\$10,055,000</b>

\*November 1995 increase about \$50,000, this is total business tax including increase

rev/218tes



**CITY OF RIVERSIDE**

**POTENTIAL IMPACTS FROM PROPOSITION 218**

Street Light Assessment District	\$2,900,000
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\*November 1995 increase about \$50,000, this is total business tax including increase

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## Testimony for 24 September 1996 Joint Senate Hearing on Proposition 218

Good morning Mr. Chairman and members of the committee.

I am Marsha Knudsen, President of the Stockton Teachers Association. On behalf of the 240,000 teachers and educational personnel we represent, I would like to thank you for this opportunity to discuss Proposition 218.

A careful study of the Proposition has convinced teachers that it represents a great threat to public education. Simply put, Proposition 218 represents bad news for California school children, teachers, and schools.

First of all, Proposition 218 would redirect millions of dollars from public education. By doing so, it would undermine our efforts to make our schools the best in the nation. Prop. 218 would hamper our efforts to reduce class sizes. It would limit our ability to provide desperately needed instructional materials. It would weaken our efforts to secure computers for our students. It would take dollars away from our efforts to make our schools safe. And it would do all of this at a time when our schools are experiencing some of the greatest challenges in our state's history.

To put it succinctly, the proposition would harm our schools' key mission -- educating our children for the 21st century.

Here's how the measure would harm our schools.

First, Prop. 218 would end schools' long-standing exemption from property assessments. Eliminating this exemption alone would cost public education millions statewide. It would have the same effect as slashing school funding by millions upon millions of dollars.

Second, Prop. 218 would jeopardize already approved local property assessment fees that are earmarked for schools. Under provisions of the measure, schools would have to submit to a vote of property owners -- and property owners only -- such assessments approved on behalf of schools since January 1, 1995.

More.....



Note that I said a vote of property owners and property owners only. The measure would take away from many of our state's citizens one of the most precious rights of a democracy -- the right to cast a vote.... the right of self-determination.

Third, the measure would prohibit schools from adopting a fee or assessment of any kind without approval of property owners. Worse yet, even property owners would not have equal votes. In some kind of throwback to the days of feudal landlords, those with larger landholdings would get more votes than those with smaller parcels. And renters would have no vote at all, even though landlords routinely pass along the costs of assessments by raising rents.

Fourth, the Proposition could lead to the repeal of virtually all school district taxes, assessments and fees. These could be put on the ballot under the expanded initiative powers created by the Proposition. And once again, only property owners would vote, with wealthy landowners getting more votes than anyone else.

Fifth, the measure would redefine the legal standing of school district taxes. Under Proposition 218, such levees would suddenly become "special taxes." From then on, such special taxes would require a two-thirds majority for passage, unlike the current simple majority now needed.

Any way you look at it, Prop. 218 would harm our state, our schools and our school children. It would reduce funds for critical educational items, including class-size reduction, computers, and school safety.

Let me sum it up this way, Proposition 218 is nothing less than an all-out attack on California's public school children. The California Teachers Association urges voters to reject this ill-conceived measure.

Thank you.





## THE LEAGUE OF WOMEN VOTERS OF CALIFORNIA

926 J Street, Suite 1000, Sacramento, CA 95814 (916) 442-7215 / Fax (916) 442-7362

Testimony of Trudy Schafer  
Joint Hearing of the Senate Committees on Bonded Indebtedness,  
Revenue and Taxation, and Local Government  
September 24, 1996

### Proposition 218

The League of Women Voters of California vigorously opposes Proposition 218. This constitutional amendment cuts existing funding for critically needed community services, hamstringing local governments as they carry out their responsibilities to their constituents, and could reduce the voting rights of homeowners in every neighborhood in California.

In our study of State and Local Finances concluded in 1995, our members agreed that there needed to be a variety of revenue sources available to local governments, including local taxes, fees, and benefit assessments. There should be provisions for those unable to pay for services.

Proposition 218 would create significant barriers to adequate and flexible funding of important local services the League supports. Existing funding for vital services for our communities—such as police, fire, emergency medical services, park and recreation programs, and public libraries—may be wiped out by this measure, leaving the future of such services at risk. This proposition would eliminate certain life line services for seniors and the disabled. Emergency assessments could not be passed to deal with the aftermath of earthquakes, floods, and fires with repair of roads, bridges, and utility services.

The Legislative Analyst has stated that loss of revenue to local government would exceed \$100 million in the first year and that this figure could be considerably greater over time. This significant revenue loss will decrease the ability of local governments to meet their fiscal responsibilities.

The League's support for a quality education for all is another reason for our opposition to this measure. Using general funds designated for classroom programs for the payment of benefit assessments has never been necessary for schools. This measure would change that—pulling schools even farther behind the funding for classrooms provided in other states. This diversion of funding is unconscionable.

The weighted vote for assessments does not appear to assure better safeguards to the public's interest than current statute and may introduce new inequities into the system. Changing the definition of those able to vote to only property owners—with weighted votes—is a problem for the League for we strongly support every citizen's right to vote as well as the concept of "one person, one vote." Placing this provision into the constitution would make change most difficult.

In the guise of "tax reform," Proposition 218 transfers voting rights on local tax assessments away from citizen voters and gives those voting rights to big land developers, corporations, and others who don't even live in our communities. Section 4(e) of the proposal gives corporations and large



landowners more voting power than average homeowners. For example, say that a land developer owns 500 acres, while homeowners in the same district own one-fifth of an acre. The developer gets 2,500 more votes on a local issue than the homeowners do. And renters would have no vote!

Proposition 218 would mandate millions of dollars in election costs—paid for by local citizens—even on fee and assessment issues for which there is wide agreement as to need. This loss of flexibility is a key point in the League's opposition to the measure. The League of Women Voters supports governing body adoption of user fees and schedules, minimal use of direct voting by citizens on tax sources and rates, and a simple majority vote by the public or governing board to adopt, repeal or change a revenue or finance measure.

Separate public votes on a variety of revenue measures at each election will encourage piecemeal decision making and discourage long-range planning and policy development. The power and ability of representative government to weigh proposals, modify recommendations, respond to suggestions of the public, consider the "big picture," and represent the interests of all residents will be further reduced by this proposition.

For all these reasons, the League of Women Voters is strongly opposed to Proposition 218.



EXHIBIT 3a



**Overview of Proposition 218  
"The Right to Vote on Taxes Initiative"**

Presented To  
The Senate Local Government Committee

(This handout is available on the LAO's World Wide Web site at  
<http://www.lao.ca.gov>.)

September 24, 1996

LEGISLATIVE ANALYST'S OFFICE

LEGISLATIVE INTENT SERVICE (800) 666-1917





## Overview

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### Proposition 218 would:

- Restrict local government revenue raising ability. Bring greater uncertainty to local government finance.
- Reduce the amount of fees, assessments, and taxes that individuals and businesses pay. Increase voter-approval requirements for local taxes, assessments and fees.
- Reduce spending for local public services.

Proposition 218 affects most local government revenues, including garbage collection fees, fire assessments, and utility user taxes. The only local revenues **not** affected directly by Proposition 218 are: fees for local services not related to property, gas and electric charges, fees collected as a condition of property development, and intergovernmental transfers.





## Assessments

### Which are affected?

All new assessments and some existing assessments. Existing assessments exempt from the measure's provisions are those that meet at least one of the following conditions:

- The assessment was previously approved by voters—or by all the property owners at the time the assessment was created.
- All the funds raised from the assessment are pledged to bond repayment.
- All the funds raised from the assessment are used to pay for sidewalks, streets, sewers, water, flood control, drainage system or vector control programs (such as mosquito abatement).

### Major Provisions

- Only "special benefits" are assessable. Local governments may not impose assessments to pay for the cost of providing a general benefit to the community.
- No property owner's assessment may exceed his or her proportionate share of the cost of the special benefit.
- Property owners must vote to approve all assessments. Property owners' votes are weighted in proportion to the amount of assessments they would pay.





## Fees

### Which are affected?

- All new and existing "property-related" fees.
- There is little consensus as to what constitutes a "property-related fee", however, Proposition 218 explicitly exempts from this definition gas and electric charges and fees imposed as a condition to property development.

### Major Provisions

- No property owner's fee may exceed his or her proportionate share of costs for the property-related service.
- Local governments may not divert property-related fee revenues to pay for other governmental programs.
- Local governments may not impose a property-related fee for a service not immediately available to the property owner.
- Local government must notify all property owners before imposing a property-related fee. Some fees would be subject to voter approval.





## Initiatives and Taxes

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### Major Provisions

- Any local tax, assessment or fee may be reduced or repealed through the initiative process.
- General taxes imposed after December 31, 1994 without a vote of the people must be placed on the ballot for ratification within two years.
- Charter cities must submit proposed general taxes to a majority vote of the people.
- Local government must secure two-thirds voter approval for any tax to be used for special purposes, even if the tax revenues are to be placed in a locality's general fund.





## Fiscal Effect

### IF PROPOSITION 218 IS ADOPTED BY THE VOTERS, WE ESTIMATE THAT:

- Local government revenue reductions statewide would likely exceed \$100 million annually in the short run—and potentially hundreds of millions of dollars annually over the longer term. (The actual fiscal impact would depend on local government actions, voter decisions and court interpretations.)
- Individual and business payments to local government would decline by comparable amounts.
- In general, these local government revenue losses would result in similar reductions in spending for local public services. Because local governments vary significantly in their reliance upon taxes, fees, and assessments, this measure's impact on individual communities would differ greatly.
- Local governments would have increased costs to hold elections, recalculate fees and assessments, notify the public, and defend their fees and assessments in court. These local increased costs are unknown, but could exceed \$10 million initially, and lesser amounts annually after that.
- School and community college districts, state agencies, cities and counties, and other public agencies would have increased costs to pay their share of assessments. The amount of this costs is not known, but could total over \$10 million initially, and increasing amounts in the future.



## Summary

- Proposition 218 is a major measure with significant implications for local governments, property owners, businesses, and California residents.
- The measure would restrict local government's ability to raise most forms of revenue. This restriction would result in lower payments by individuals and businesses to local government—and less spending for local public services.
- Proposition 218's (1) requirement that many existing fees, assessments and taxes be recalculated and submitted to a vote, (2) expansion of the initiative powers, and (3) shift of burden of proof in lawsuits challenging fee and assessment amounts all serve to *increase* local residents' direct control over local government finances, but *decrease* the certainty in local government finance.



EXHIBIT 3b

Legislative Analyst's Office, December 1996



# Understanding Proposition 218

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## Introduction

Proposition 218 significantly changes local government finance. This constitutional initiative--approved by the state's voters in November 1996--applies to each of California's nearly 7,000 cities, counties, special districts, schools, community college districts, redevelopment agencies, and regional organizations.

The purpose of this guide is to help the Legislature, local officials, and other parties understand Proposition 218, including the actions local governments must take to implement it. The guide includes five chapters:

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- How Proposition 218 Changes Local Finance and Governance.
- Understanding the Vocabulary of Proposition 218.
- Are Existing Revenues Affected by Proposition 218?
- What Must a Local Government do to Raise New Revenues?
- May Residents Overturn Local Taxes, Assessments, and Fees?

Finally, the appendix to this guide summarizes major areas of uncertainty pertaining to Proposition 218 (some of which the Legislature may wish to address), and includes the text of Proposition 218 (now Article XIII C and D of the California Constitution).

## Chapter 1

# How Proposition 218 Changes Local Finance and Governance

Nearly two decades ago, Proposition 13 sharply constrained local governments' ability to raise property taxes, the mainstay of local government finance. Proposition 13 also specified that any local tax imposed to pay for specific governmental programs--a "special tax"--must be approved by two-thirds of the voters.

Since that time, many local governments have relied increasingly upon *other* revenue tools to finance local services, most notably: assessments, property-related fees, and a variety of small general purpose taxes (such as hotel, business license, and utility user taxes). It is the use of *these* local revenue tools that is the focus of Proposition 218.

In general, the intent of Proposition 218 is to ensure that all taxes and most charges on property owners are subject to voter approval. In addition, Proposition 218 seeks to curb some perceived abuses in the use of assessments and property-related fees, specifically the use of these revenue-raising tools to pay for general governmental services rather than property-related services.

In this chapter, we provide an overview and perspective on the impact of Proposition 218 on local finance and governance.

## Proposition 218 Changes Local Government Finance

Proposition 218 makes several important changes regarding local government finance. Figure 1 summarizes our observations regarding their fiscal impact.



<b>Figure 1</b>
<b>Proposition 218's Impact on Local Finance</b>
<ul style="list-style-type: none"> <li>♦ The measure's fiscal impact cannot be fully ascertained until the uncertainty regarding some of its provisions are resolved.</li> <li>♦ Most local revenues are not affected.</li> <li>♦ The impact on certain local governments could be substantial.</li> <li>♦ Local government revenue reductions will begin in 1997.</li> <li>♦ In the long term, local government revenues are likely to be somewhat lower and come from different sources.</li> </ul>

**Some Uncertainty Regarding Proposition 218's Provisions**

Proposition 218's requirements span a large spectrum, including local initiatives, water standby charges, legal standards of proof, election procedures, and the calculation and use of sewer assessment revenues. Although the measure is quite detailed in many respects, some important provisions are not completely clear.

In this guide, we provide our interpretation of the measure's requirements. This interpretation is based on our extensive review of the measure, as well as consultations with the measure's drafters, local government officials, and legal counsel. In some cases, however, we are not able to fully ascertain the meaning or scope of a Proposition 218 requirement. We believe our uncertainty--frequently shared by other analysts of the measure--will be resolved only when the Legislature enacts implementing statutes or court rulings become available.

Accordingly, throughout this guide we discuss Proposition 218 as we understand it. Where other parties have different opinions or the measure's requirements are not clear, we provide this information. Finally, we provide in Appendix I a summary of the areas in which clarifying legislative or judicial action may be necessary.

**Most Local Revenues Are Not Affected**

California local governments raise more than \$50 billion annually from taxes, assessments, and fees. As Figure 2 shows, most of these local revenues are *not* affected directly by Proposition 218. Instead, Proposition 218's provisions apply to a relatively small subset of local government revenues.

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**Figure 2**

**Which Local Revenues Are Affected by Proposition 218?**

Affected	Not Directly Affected
<b>Taxes</b>	
New and some recently imposed "general" taxes.	Property taxes. Bradley-Burns sales taxes. Special taxes. Vehicle license taxes. Redevelopment revenues. Mello-Roos taxes. Timber taxes.
<b>Assessments</b>	
All new or increased assessments. Some existing assessments.	Most existing assessments.
<b>Fees</b>	
Property-related fees. (Fees imposed as an "incident of property ownership," not including gas, electric, or developer fees.)	Fees that are not property-related. Gas and electric fees. Developer fees.

Given the relatively small number and dollar value of local revenue sources that are affected by Proposition 218, we think it is highly unlikely that the measure could cause more than a 5 percent annual decrease in *aggregate* local government own-source revenues.

**Impact on Certain Local Governments May Be Substantial**

The actual impact of Proposition 218 on local public services may be greater than our 5 percent estimate would suggest, however, for a variety of reasons. First, some governments are highly reliant upon the types of assessments and fees that would be restricted by this measure. These local governments--typically, small, newly incorporated cities, and library, fire, and park and recreation special districts--may sustain revenue reductions of much more than 5 percent. Some special districts also lack the authority to propose taxes to replace the lost assessment and fee revenues.

Second, many local governments have limited flexibility to reduce programs when revenues decline. Most major county programs, for example, are subject to state and federal mandates and spending requirements. As a result, relatively small revenue losses can trigger significant reductions to the few programs over which the local government has control.

Finally, many local governments will experience both revenue reductions *and* cost increases to comply with Proposition 218. For example, some local governments will lose part of their assessment and fee revenues, and have to pay:

- Assessments charges to other local governments.

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- Increased election, property-owner notification, and administrative costs.

These increased costs will increase the fiscal impact of this measure on local government programs.

### **Fiscal Impact Begins in 1997**

The fiscal impact of Proposition 218 will begin almost immediately. Within eight months of Proposition 218's passage, local governments will need to reduce or eliminate certain existing assessments and fees to meet the measure's requirements. (These requirements are discussed in Chapter Three.) We estimate that these actions will reduce local government revenues by at least \$100 million in 1997-98.

Proposition 218 also requires local governments to place before the voters certain existing assessments and taxes. Unless the voters ratify these assessments and taxes, local governments will experience *additional* revenues losses, potentially exceeding \$100 million annually.

### **Longer Term: Different Revenue Sources, Probably Less Money**

Proposition 218 restricts local governments' ability to impose assessments and property-related fees--and requires elections to approve many local government revenue raising methods. Because of this, it is likely that over the long term local governments will raise fewer revenues from assessments, property-related fees, and some taxes.

Unless these reduced local revenues are replaced with other revenues, local government spending for local public services will decrease accordingly. What other revenues could offset these revenue reductions? It is likely that local governments will pursue one or more of the following sources of potential replacement revenues:

- Redevelopment revenues.
- Developer exactions.
- General taxes imposed on particular groups (such as business license, hotel occupancy, and sporting or entertainment admission taxes).
- Special taxes imposed on properties within small, discrete areas.
- Intergovernmental transfers.
- Non-property related fees.

**Limited Ability to Raise Replacement Revenues.** Local governments' ability to expand these six other revenue sources is not great. Various legal and practical restrictions limit a major expansion of redevelopment or developer exactions, for example. In addition, many local government observers believe that existing hotel and business taxes are already high and not all parts of the state have major entertainment or sporting centers. (We include these taxes on the above list because these taxes are not paid directly by most voters. Thus, the likelihood of their being approved by a majority of voters may be higher than other general taxes.)



Similarly, while local governments in California have had difficulty securing the requisite two-thirds vote to impose special taxes, it is likely that some additional special taxes will be approved. Special taxes probably are more likely to be adopted in small, discrete areas of a community where the commonality of interest is high, however, rather than on a community-wide basis. Thus, the likelihood of generating significant revenues from special taxes is not great.

Additional major revenues from the state or federal government also do not appear likely, given the fiscal limitations faced by both these level of governments. (Please see our November 1996 publication, *California's Fiscal Outlook*, for our projections of the state's fiscal condition.)

This leaves the last revenue source on our list: non-property related fees. Ultimately, the ability of local government to expand this revenue source turns on how the term "property-related" fee is defined by the Legislature or courts. If the definition of a property-related fee is broad, then local government's ability to replace revenues lost by Proposition 218 is limited. Conversely, if this definition is narrow, then local government will have greater opportunities to replace lost revenues with expanded non property-related fees. (Even then, however, the state Constitution and statutes do not permit local government to charge fees in excess of costs.)

All in all, our review indicates that most local governments will have some ability to raise revenues to replace some of the funding lost by Proposition 218. This ability, however, is limited. Accordingly, we expect that in the long term, local governments will raise somewhat less revenues than they would have otherwise--and local government revenues will come from somewhat different sources. These revenue reductions will result in lower payments by people and businesses to government--and decreased spending for local public services.

## Proposition 218 Changes Local Governance

In addition to changing local finance, Proposition 218 changes the governance roles and responsibilities of local residents and property owners, local government, and potentially, the state. While the full ramifications of these changes will not be known for years to come, some elements are already apparent.

### Increased Role for Local Residents And Property Owners

Prior to Proposition 218, the local resident and property owner's role in approving most new local government revenue-raising measures was minimal. Local governments typically raised new funds by imposing new or increased assessments or fees, or in the case of charter cities, general-purpose taxes on utility use, business licences, and hotel occupancy. In most cases, California residents or property owners could object to these taxes or charges at a public hearing or during a statutory protest procedure, but these taxes or charges were not placed on the ballot. In short, locally elected governing bodies held most of the power over local revenue raising.

Proposition 218 shifts most of this power over taxation from locally elected governing boards to residents and property owners. In order to fulfill this considerable responsibility, local residents and property owners will need greater information on local government finances and responsibilities. Even with this information, however, the task of local residents and property owners will be difficult, given the frequently confusing manner in which program responsibilities are shared between state and local government, and among local governments.



### **Local Government Remains Responsible for Expenditures**

Local government's powers, in contrast, become significantly constrained. While locally elected governing boards continue to be fully responsible for decision-making regarding the expenditure of public funds, they now have very little authority to raise funds without a vote of the residents or property owners. In addition, Proposition 218 limits local government's authority to call an election to raise revenues. Specifically, except in cases of emergency, local governments now may hold elections on general taxes only once every two years (consolidated with an election for members of the governing board.) Moreover, Proposition 218 limits the amount of an assessment or property-related fee that may be put before the property owners for a vote.

### **State Government Role May Expand**

Proposition 218 may also alter the state's role and responsibilities regarding local government in several important ways. First, the Legislature will be asked to play a large role in interpreting Proposition 218's requirements, and helping set the rules regarding local government finance. In some cases, local governments are likely to ask for urgency legislation to enact these measures because the deadline for compliance with some Proposition 218 provisions is July 1, 1997.

Second, the Legislature will probably receive requests for fiscal assistance from local governments. These requests are likely to begin in the spring of 1997, as the fiscal consequences of the assessment and fee restrictions become apparent. Local governments are likely to turn to the state because it has more fiscal flexibility than local government. For example, the Legislature may raise taxes at any time with a two-thirds vote of its members.

Finally, any effort to restructure state-local program responsibilities is now more complicated. Specifically, the Legislature will have less flexibility to realign programs in a manner that increases local government responsibility without providing a direct subvention of state funds. This is because local governments have little or no flexibility to adjust their own revenues.

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## **Chapter 2**

# **Understanding the Vocabulary of Proposition 218**

Any discussion of Proposition 218 requires an explanation of several local government finance words and terms. This chapter explains the vocabulary.

## **What Is a Tax?**

Taxes are government's most flexible revenue raising tool. A tax is a charge on an individual or business that pays for governmental services or facilities that benefit the public broadly. There need not be any direct relationship between how much tax a person pays and how much service he or she receives from government. Example of taxes include the property tax, sales tax, business licence tax, hotel occupancy tax, and utility users



tax.

### **Special Tax Versus General Tax**

A tax is called a "special" tax if its revenues are used for specific purposes and a "general" tax if its revenues may be used for any governmental purpose. This distinction is important because it determines whether a tax must be approved by a majority vote of the electorate (general tax)--or a two-thirds vote (special tax).

## **What Is an Assessment?**

An assessment is a charge levied on property to pay for a public improvement or service that benefits property. Assessments are usually collected on the regular property tax bill. They are different, however, from the regular 1 percent property tax and property tax debt overrides in that assessment rates are not based on the value of the property. Assessments are also different from another charge that sometimes is placed on the property tax bill, parcel taxes. Unlike parcel taxes, assessments typically were not voter approved prior to Proposition 218. In addition, assessment rates were linked to the cost of providing a service or improvement, whereas parcel taxes could be set at any amount. Typical assessments include those for flood control improvements, streets, and lighting and landscaping.

## **What Is a Fee?**

A fee is a charge imposed on an individual or business for a service or facility provided directly to an individual or business. Local governments charge fees for a wide range of purposes, from park entry fees to building plan check fees. The amount of the fee may not exceed the cost of government to provide the service.

### **A New Term: "Property-Related Fee"**

Proposition 218 restricts property-related fees, defined as fees imposed "as an incident of property ownership." At this time, there is no consensus as to which fees meet this definition. The drafters of Proposition 218 indicate that it was their intent to include most fees commonly collected on monthly bills to property owners, such as those for water delivery, garbage service, sewer service, and storm water management fees. Other analysts of Proposition 218 contend that fees that vary by level of service (for example, a fee for metered water usage) should not be considered a property-related fee, because it is based on service usage, rather than property ownership. Because Proposition 218 does not restrict nonproperty-related fees, the definition of this term will be an important and sensitive issue for the Legislature and courts.

## **Overlapping Terms**

While the terms tax, assessment, and fee are each legally distinct, in practice they overlap. For example, communities in California may finance streets from taxes, assessments, and/or fees. In addition, local government officials sometimes call a charge one term, when it was legally adopted as another. As a result, the work of sorting out whether a particular charge must comply with Proposition 218's requirements for a tax, assessment, or fee will not always be easy.



## Chapter 3

# Are Existing Revenues Affected by Proposition 218?

Local governments must bring their existing taxes, assessments and property-related fees into conformity with Proposition 218. The deadline for each of these actions is:

- July 1, 1997--for assessment and property-related fees.
- November 6, 1998--for taxes.

Below, we discuss Proposition 218's requirements regarding *existing* taxes, assessments, and fees. (The requirements for *new* or *increased* revenue raising tools is the topic of the next chapter.) After each section, we answer some common questions regarding Proposition 218's requirements.

## Requirements for Existing Taxes

Proposition 218 does not affect existing special taxes or most general taxes. Proposition 218 affects only those *general* taxes that were imposed in 1995 or 1996 without a vote of the people.

In order to continue such a tax, Proposition 218 requires the governing body to place the tax before the voters by November 6, 1998. Unless the governing body unanimously votes to declare the election an emergency, the tax election must be consolidated with a regularly scheduled election for members of the governing body. The local government may continue an existing tax if it is approved by a majority vote.

### Questions

**Are general taxes imposed before 1995, without a vote of the people, safe from challenges?**

No. Our review indicates that general law cities and counties that imposed general taxes in the early 1990s, without a vote of the people, continue to be vulnerable to a challenge that they did not place their tax on the ballots required by Proposition 62. In 1995, the California Supreme Court reversed earlier lower court decisions and found Proposition 62 to be constitutional.

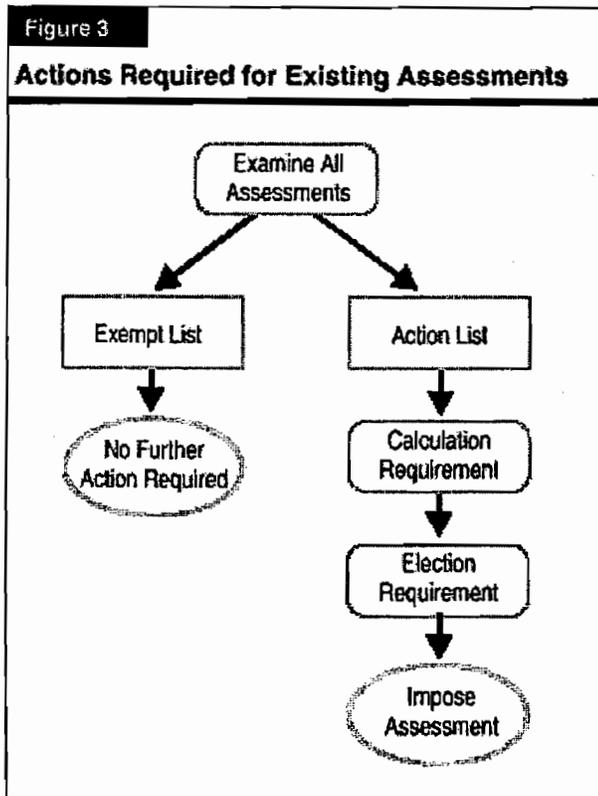
**Are Mello-Roos taxes affected?**

No. Mello-Roos taxes are not affected by Proposition 218. Mello-Roos taxes—usually imposed on new subdivisions to pay for infrastructure—are special taxes and already require a two-thirds vote. There are a very limited number of cases, however, where a local government has used Mello-Roos law to impose an *assessment* without a two-thirds vote. We believe local governments must bring these assessments into compliance with Proposition 218's assessments provisions (discussed below).



## Requirements for Existing Assessments

Local governments must review all existing assessments, including standby-charges (which the measure defines as assessments). Figure 3 (see next page) shows the actions local governments must take to bring their existing assessments into compliance with Proposition 218.



### The Examination Requirement: Many Assessments Will Qualify for Exempt List

Local government must examine each assessment to determine whether it meets one of the conditions for placement on the "exempt list." These conditions are:

- The assessment was previously approved by voters--or by all the property owners at the time the assessment was created.
- All of the assessment proceeds are pledged to bond repayment.
- All the assessment proceeds are used to pay for sidewalks, streets, sewers, water, flood control, drainage systems, or "vector control" (such as mosquito control).

Our review indicates that more than half of all existing assessments are likely to be exempt. Generally, this is



because the assessment's funds are used for one of the approved purposes or are pledged to bond repayment--or the assessment was agreed to by a land developer, the sole property owner at the time the assessment was established.

If an assessment is not exempt, then the local government must eliminate the assessment or bring it into compliance with Proposition 218's assessment calculation and election requirements (described below). Our review indicates that the types of assessments that are not likely to satisfy any of the conditions for exemption are: fire, lighting and landscaping, and park and recreation assessments.

### **The Calculation Requirement: One of Proposition 218's Most Significant Changes**

Local governments must recalculate all existing assessments that do not qualify for the exempt list. Our review indicates that in many cases, Proposition 218's provisions regarding the calculation of assessments will result in local governments lowering the amount they collect in assessments from property owners, or eliminating the assessment. We identify the specific calculation provisions below.

**First: Determine If a Project or Service Provides Special Benefits.** The local government must determine whether property owners would receive a "special benefit" from the project or service to be financed by the assessment. Proposition 218 defines a special benefit as a particular benefit to land and buildings, not a general benefit to the public or a general increase in property values. If a project or service would not provide such a special benefit, Proposition 218 states that it may not be financed by an assessment. Our review indicates that local governments will find it difficult to demonstrate that some existing assessments for ambulance, library, police, business improvement, and other services satisfy this tightened definition of special benefit. As a consequence, some existing assessments may need to be eliminated.

**Second: Estimate the Amount of Special Benefit.** Local government must use a professional engineer's report to estimate the *amount* of special benefit landowners would receive from the project or service, as well as the *amount* of "general benefit." This step is needed because Proposition 218 allows local government to recoup from assessments only the proportionate share of cost to provide the special benefit. That is, if special benefits represent 50 percent of total benefits, local government may use assessments to recoup half the project or service's costs. Local governments must use other revenues to pay for any remaining costs. This limitation on the use of assessments represents a major change from the law prior to Proposition 218, when local governments could recoup from assessments the costs of providing both general and special benefits.

**Third: Set Assessment Charges Proportionally.** Finally, the local government must set individual assessment charges so that no property owner pays more than his or her proportional share of the total cost. This may require the local government to set assessment rates on a parcel-by-parcel basis. Properties owned by schools and other governmental agencies--previously exempt from some assessment charges--now must pay assessments.

### **Election Requirement: All Property-Owners Vote on Assessments**

Local governments must mail information regarding assessments to all property owners. (Prior to Proposition 218, large communities could publish assessment information, rather than mail it to every property owner.) Each assessment notice must contain a mail-in ballot for the property owner to indicate his or her



approval or disapproval of the assessment.

After mailing the notices, the local government must hold a public hearing. At the conclusion of the hearing, the local government must tabulate the ballots, weighing them in proportion to the amount of the assessment each property owner would pay. (For example, if homeowner Jones would pay twice as much assessment as homeowner Smith, homeowner Jones' vote would "count" twice as much as homeowner Smith's vote.) The assessment may be imposed only if 50 percent or more of the weighted ballots support the assessment.

**Questions**

**Would part, or all, of an assessment be exempt if most of its proceeds are used for an approved program?**

Probably not. Proposition 218 states that an assessment is exempt if its proceeds are used *exclusively* for one or more of seven approved programs. However, the measure does not define what costs may be included under these approved programs. Thus, it is not clear if an assessment that funds streets (an approved program) and curbs or street lighting (not identified as approved programs) is exempt. Legislative action may be needed to clarify this.

**Is the difference between "general benefit" and "special benefit" clear?**

No. Proposition 218 defines a "special benefit" as a distinct benefit to real property in a specific area. All other benefits—including benefits to people's health, education, or safety, or general enhancements to property values—are considered "general benefits." While these two benefits are distinct in concept, in practice they may be difficult to distinguish. Because of the importance of the term "special benefit," legislative or court action may be needed to clarify its definition.

**Do renters get to vote?**

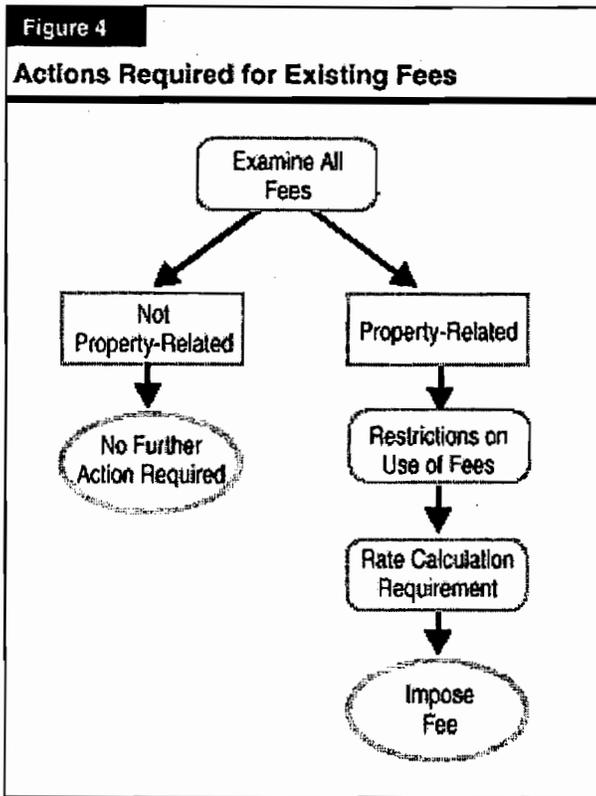
Renters may vote on an assessment if the lease agreement specifies that they are responsible for paying the assessment. This type of provision in a lease agreement is more common for commercial properties than for residential properties.

**Who gets to vote when an assessment is to be levied on public property or properties with multiple owners?**

This is not addressed in the measure. Thus, it would require clarification.

**Requirements for Existing Fees**

As with assessments, local governments must complete a multi-step review of all fees. Figure 4 summarizes the process.



**Examination Requirement:  
 Identifying Property-Related Fees**

Local government must begin by examining all existing fees to determine whether they are "property-related" fees, imposed as an "incident of property ownership." (We discuss this term and the controversy surrounding it in Chapter Two). As Figure 4 shows, if a fee is *not* property-related, then the local government need not take any further action regarding the fee. Conversely, if the fee is property-related, then the local government must make sure that the fee complies with Proposition 218's restrictions on use of fee revenues and the rate calculation requirements. The deadline for these actions is July 1, 1997.

**New Restrictions on Use of Fees**

Proposition 218 specifies that no property-related fee may be:

- Levied to pay for a general governmental service, such as police or fire service.
- Imposed for a service not used by, or immediately available to, the property owner.
- Used to finance programs unrelated to the property-related service.

In order to comply with these restrictions, local governments will need to eliminate or reduce some existing fees. For example, some small cities currently charge property owners fees for ambulance or fire service.

Proposition 218 does not permit governments to impose property-related fees for these purposes.

Similarly, some cities collect "franchise fees" or "in-lieu property taxes" from their water departments and deposit these revenues into their general funds. The cost of these franchise fees and taxes is passed onto local residents in terms of higher water fees. If water fees are considered property-related fees, then Proposition 218 would forbid this diversion of fee revenues. (Some local government observers believe that this diversion of fee revenues was impermissible *prior* to Proposition 218, as well.)

**Possible Local Government Response to Fee Restrictions.** In some cases, it may be possible for a local government to restructure a property-related fee so that it would no longer be considered a fee imposed "as an incident of property ownership." For example, a mandatory per parcel garbage collection fee may be considered a property-related fee, while an optional garbage collection service charge may not. Similarly, some local governments may be able to show that their franchise fee or in-lieu property tax represents their water department's reasonable share of central administrative expenses. If so, then Proposition 218 would not prohibit this transfer of revenues from the water department. Finally, some local governments may elect to privatize certain functions formally financed by property-related fees. Proposition 218 imposes no limit on private fees.

### Fee Rate Calculation Requirement

After complying with Proposition 218's restrictions on the use of property-related fees, the local government must make sure that its property-related fees comply with the measure's calculation requirements. Specifically, local governments must make sure that no property owner's fee is greater than the proportionate cost to provide the property-related service to his or her parcel. Like assessments, this requirement may result in local governments setting property-related fee rates on a block-by-block, or parcel-by-parcel basis.

This fee rate calculation requirement--sometimes called the "proportionality" requirement--will make it difficult for local government to continue certain programs, such as those that offer reduced rates to low-income residents. This is because local governments typically finance these lower rates by charging higher rates to other property-owners. If these fees are considered property-related fees, the higher rates would not be permitted by Proposition 218. In order to continue these programs in the future, therefore, the local government would need to offset the cost of the program with other revenues, such as general tax revenues.

### Question

**Are regulatory fees—such as rent control, alarm, and weed abatement fees—considered property-related fees?**

This is not clear. Generally, we interpret Proposition 218's term "property-related fees" as including all fees that a property owner has no feasible way to avoid. That is, a fee is property-related if land could not be owned and used without paying the fee. Accordingly, we do not consider fees for optional activities, such as the registration of alarm systems or the removal of weeds from neglected parcels, to be property-related. Rent control administrative fees are a closer call. Generally, we think these fees would be considered property-related if there were no practical way that the owner could avoid the fee, short of selling the property or fundamentally changing its use. Clearly, the definition of property-related fees will be a sensitive and important issue for the Legislature and courts.



## Chapter 4

# What Must a Local Government Do to Raise New Revenues?

In order to raise a new tax, assessment, or property-related fee, or to increase an existing one, local governments must comply with many of the same provisions discussed in the previous chapter. In general, these requirements are that local governments may use assessments and property-related fees only to finance projects and services that directly benefit property--and that most revenue-raising measures be approved in an election. Figure 5 summarizes the vote required in these elections.

**Figure 5**

**New or Increased Taxes, Assessment, and Fees**  
**What Vote is Needed?**

Type	Vote Needed	Who Votes	Vote Requirement
<b>Taxes</b>			
General	Yes	All voters in community or affected area.	Majority
Special	Yes	All voters in community or affected area.	Two-thirds
<b>Assessments</b>			
All	Yes	Property owners (and renters responsible for paying assessments) in affected area.	Majority, weighted in proportion to assessment liability.
<b>Fees</b>			
General, not property related	No	N/A	N/A
Property related	Yes, for any service other than water, sewer, or refuse collection.	Local government may choose: <ul style="list-style-type: none"> <li>• Property owners (and renters responsible for paying fee) in affected area, or</li> <li>• Electorate in the affected area.</li> </ul>	Majority of property owners or two-thirds of electorate. Local governments may weight ballots in proportion to fee liability.

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This chapter explains the steps local government must take to raise a new tax, assessment or property-related fee, or to increase an existing one.

## Requirements for New Taxes

In order to impose or increase a tax, local government must comply with the following provisions:

- All general taxes must be approved by a majority vote of the people. (A 1986 statutory initiative-- Proposition 62-- previously imposed this vote requirement on *general law* cities and counties. Proposition 218 expands this requirement to include *charter* cities, such as Los Angeles, Oakland, and San Francisco.)
- Elections for general taxes must be consolidated with a regularly scheduled election for members of the local governing body. (In an emergency, this provision may be waived by a unanimous vote of the governing body.)
- Any tax imposed for a specific purpose is a "special tax," *even if its funds are placed into the community's general fund*. (Prior to Proposition 218, all taxes placed into a community's general fund were commonly considered general taxes, requiring only a majority vote.)

## Requirements for New Assessments

All new or increased assessments must follow the assessment calculation and election requirements discussed in the previous chapter. There are no exceptions to this requirement.

As a practical matter, this requirement will mean that programs that benefit people, rather than specific properties--such as libraries, mosquito abatement, recreation programs, police protection, and some business improvement programs--must be financed by general or special taxes or by other nonassessment revenues.



### Questions

*Must a local government comply with both Proposition 218's assessment approval process and the existing statutory process for assessment approval?*

Following both of these assessment approval processes is likely to be duplicative and confusing to property owners. Most local government observers agree that some legislative action to reconcile the two assessment approval processes is needed.

*Is an assessment considered "new or increased" if it is raised by a cost-of-living factor that was part of the assessment's rate structure?*

This is not clear. Proposition 218 states that a tax is not to be considered new or increased if it is increased to a level previously approved by the voters. However, the measure does not include any such provision regarding assessments or fees. It is possible that any increase in assessments may be subject to the new calculation and election requirements.

## Requirements for New Fees

To impose a new or increased property-related fee, local government must comply with the fee restriction and fee rate calculation requirements discussed in the last chapter.

Local governments must also:

- Mail information regarding the proposed fee to every property owner.
- Hold a hearing at least 45 days after the mailing.
- Reject the proposed fee if written protests are presented by a majority of the affected property owners.
- Hold an election on any property-related fee, other than a fee for water, sewer, or refuse collection. (Figure 5 shows the vote required in these elections.)

As a practical matter, local governments will find it much more difficult--and expensive--to impose or increase property-related fees. In some cases, local governments are probably more likely to try to raise revenues through non property-related fees or taxes.



**Question**

**Could a local government impose a charge on property owners that is not an assessment, tax, or property-related fee?**

No. Proposition 218 states that all charges on property as an incident of property ownership must be a tax, assessment, or property-related fee. Proposition 218 further states that if such a charge on property is not a tax or an assessment, it is a property-related fee.

## Chapter 5

# May Residents Overturn Local Taxes, Assessments, and Fees?

Proposition 218 expands California residents' power to challenge local revenue raising measures.

## Greater Initiative Powers

Prior to Proposition 218, the extent to which local residents could use an initiative to challenge local government revenue raising methods was not certain. In a 1995 case, *Rossi v. Brown*, the California Supreme Court ruled that people had the power to use the initiative to repeal a minor tax. There have been no court rulings, however, addressing the question of whether an initiative may be used to repeal a more substantial revenue source.

Proposition 218 eliminates any ambiguity regarding the power of local residents to use the initiative by stating that residents of California shall have the power to repeal or reduce *any* local tax, assessment, or fee. In addition, the measure forbids the Legislature and local governments from imposing a signature requirement for local initiatives that is higher than that applicable to statewide statutory initiatives. As a consequence of these provisions, the only limits on local residents' ability to overturn local revenue raising measures appear to be those in the federal constitution, such as the federal debt impairment clause.



### Question

*Could a local initiative or law suit eliminate a revenue stream that is pledged to bond repayment?*

This question has evoked considerable controversy. Generally, many bond specialists indicate that the debt impairment clause in the federal constitution would prevent local residents from eliminating a new or existing revenue stream if that action would jeopardize the security of bonded indebtedness. Some local government observers, however, would like the Legislature to place a time limit on local initiatives or take other action to provide greater security to bond holders.

## Shift of Burden of Proof

Prior to Proposition 218's passage, the courts allowed local governments significant flexibility in determining fee and assessment amounts. A business or resident challenging the validity of a fee or assessment carried the "burden of proof" to show the court that the fee or assessment was illegal. Proposition 218 changed this legal standard by shifting the burden of proof to local governments. Now local governments must prove that any disputed fee or assessment charge is legal.

## Appendix I:

### Areas in Which Legislative or Judicial Clarification May Be Needed

As we discuss throughout this guide, while Proposition 218 is quite detailed in many respects, some important provisions are not completely clear. This appendix summarizes the major questions regarding Proposition 218 that must be resolved so that local governments can begin implementation.

Because Proposition 218 sets a July 1, 1997 deadline for local governments to bring existing fees and assessments into conformity with the measure's requirements, legislative or judicial clarification on questions related to assessments and fees is needed as soon as possible.

#### Property-Related Fees

- What is included in the definition of a property-related fee?
- Are water charges that are based on metered use of water property-related fees?
- Are regulatory fees, such as rent control administrative fees, property-related fees?



- Are lease payments and other such charges on government-owned assets property-related fees?
- How precisely must local government allocate shares of costs for a property-related service? Can local government set general fee rate categories, or must local government determine the actual cost of service to every parcel?

## Assessments

- What is a "special benefit" and how can it be distinguished from a "general benefit?"
- Existing assessments used exclusively for sidewalks, streets, sewers, water, flood control, drainage systems, and vector control are exempt from the measure's calculation and election requirements. How broadly should these exemptions be interpreted?
- How precisely must local government allocate shares of costs for an assessment? Can local government set general assessment rate categories, or must local government determine the actual cost of service to every parcel?
- If an existing assessment is increased by a formula that was set forth at the time the existing assessment was imposed, must the assessment comply with the measure's calculation and election requirements? Similarly, need the measure go through these processes again if a *future* assessment is increased by a formula set forth at the time the new assessment was imposed?
- How should the existing statutory assessment approval process be reconciled with Proposition 218's assessment approval process?
- Some assessments are annually re-imposed by local government. Must a local government annually repeat the calculation and election procedures required by Proposition 218?
- If an assessment that is annually re-imposed by local government is currently eligible for the exempt list, must it comply with Proposition 218's calculation and election procedures when it is re-imposed next year?

## Elections

- What procedures should govern the assessment and fee elections?
- Who may vote on referendums to repeal assessments, fees, or taxes?
- How will a local government determine whether a renter is eligible to vote?
- Who gets to vote when a parcel is owned by multiple parties, or by a governmental entity?

## Taxes



- Are Mello-Roos taxes affected in any way? Similarly, how should assessments imposed under Mello-Roos law be treated?
- Is the measure's requirement that certain existing taxes be ratified by the voters an unconstitutional referendum on taxes?

## Debt

- Could a local initiative jeopardize a revenue stream pledged to the payment of existing (or future) debt?

## Appendix II:

### Text of Proposition 218

This initiative measure adds Articles XIII C and D to the California Constitution.

#### **RIGHT TO VOTE ON TAXES ACT**

##### **SECTION 1. TITLE.**

This act shall be known and may be cited as the "Right to Vote on Taxes Act."

##### **SECTION 2. FINDINGS AND DECLARATIONS.**

The people of the State of California hereby find and declare that Proposition 13 was intended to provide effective tax relief and to require voter approval of tax increases. However, local governments have subjected taxpayers to excessive tax, assessment, fee and charge increases that not only frustrate the purposes of voter approval for tax increases, but also threaten the economic security of all Californians and the California economy itself. This measure protects taxpayers by limiting the methods by which local governments exact revenue from taxpayers without their consent.

##### **SECTION 3. VOTER APPROVAL FOR LOCAL TAX LEVIES.**

Article XIII C is added to the California Constitution to read:

#### ***ARTICLE XIII C***

##### ***SECTION 1. Definitions. As used in this article:***

***(a) "General tax" means any tax imposed for general governmental purposes.***



*(b) "Local government" means any county, city, city and county, including a charter city or county, any special district, or any other local or regional governmental entity.*

*(c) "Special district" means an agency of the state, formed pursuant to general law or a special act, for the local performance of governmental or proprietary functions with limited geographic boundaries including, but not limited to, school districts and redevelopment agencies.*

*(d) "Special tax" means any tax imposed for specific purposes, including a tax imposed for specific purposes, which is placed into a general fund.*

**SEC. 2. Local Government Tax Limitation. Notwithstanding any other provision of this Constitution:**

*(a) All taxes imposed by any local government shall be deemed to be either general taxes or special taxes. Special purpose districts or agencies, including school districts, shall have no power to levy general taxes.*

*(b) No local government may impose, extend, or increase any general tax unless and until that tax is submitted to the electorate and approved by a majority vote. A general tax shall not be deemed to have been increased if it is imposed at a rate not higher than the maximum rate so approved. The election required by this subdivision shall be consolidated with a regularly scheduled general election for members of the governing body of the local government, except in cases of emergency declared by a unanimous vote of the governing body.*

*(c) Any general tax imposed, extended, or increased, without voter approval, by any local government on or after January 1, 1995, and prior to the effective date of this article, shall continue to be imposed only if approved by a majority vote of the voters voting in an election on the issue of the imposition, which election shall be held within two years of the effective date of this article and in compliance with subdivision (b).*

*(d) No local government may impose, extend, or increase any special tax unless and until that tax is submitted to the electorate and approved by a two-thirds vote. A special tax shall not be deemed to have been increased if it is imposed at a rate not higher than the maximum rate so approved.*

**SEC. 3. Initiative Power for Local Taxes, Assessments, Fees and Charges. Notwithstanding any other provision of this Constitution, including, but not limited to, Sections 8 and 9 of Article II, the initiative power shall not be prohibited or otherwise limited in matters of reducing or repealing any local tax, assessment, fee or charge. The power of initiative to affect local taxes, assessments, fees and charges shall be applicable to all local governments and neither the Legislature nor any local government charter shall impose a signature requirement higher than that applicable to statewide statutory initiatives.**

#### **SECTION 4. ASSESSMENT AND PROPERTY RELATED FEE REFORM.**

Article XIII D is added to the California Constitution to read:

#### **ARTICLE XIII D**

**SECTION 1. Application. Notwithstanding any other provision of law, the provisions of this article shall apply to all assessments, fees and charges, whether imposed pursuant to state statute or local government charter authority. Nothing in this article or Article XIII C shall be construed to:**



- (a) Provide any new authority to any agency to impose a tax, assessment, fee, or charge.
- (b) Affect existing laws relating to the imposition of fees or charges as a condition of property development.
- (c) Affect existing laws relating to the imposition of timber yield taxes.

*SEC. 2. Definitions. As used in this article:*

- (a) "Agency" means any local government as defined in subdivision (b) of Section 1 of Article XIII C.
- (b) "Assessment" means any levy or charge upon real property by an agency for a special benefit conferred upon the real property. "Assessment" includes, but is not limited to, "special assessment," "benefit assessment," "maintenance assessment" and "special assessment tax."
- (c) "Capital cost" means the cost of acquisition, installation, construction, reconstruction, or replacement of a permanent public improvement by an agency.
- (d) "District" means an area determined by an agency to contain all parcels which will receive a special benefit from a proposed public improvement or property-related service.
- (e) "Fee" or "charge" means any levy other than an ad valorem tax, a special tax, or an assessment, imposed by an agency upon a parcel or upon a person as an incident of property ownership, including a user fee or charge for a property related service.
- (f) "Maintenance and operation expenses" means the cost of rent, repair, replacement, rehabilitation, fuel, power, electrical current, care, and supervision necessary to properly operate and maintain a permanent public improvement.
- (g) "Property ownership" shall be deemed to include tenancies of real property where tenants are directly liable to pay the assessment, fee, or charge in question.
- (h) "Property-related service" means a public service having a direct relationship to property ownership.
- (i) "Special benefit" means a particular and distinct benefit over and above general benefits conferred on real property located in the district or to the public at large. General enhancement of property value does not constitute "special benefit."

*SEC. 3. Property Taxes, Assessments, Fees and Charges Limited. (a) No tax, assessment, fee, or charge shall be assessed by any agency upon any parcel of property or upon any person as an incident of property ownership except:*

- (1) The ad valorem property tax imposed pursuant to Article XIII and Article XIII A.
- (2) Any special tax receiving a two-thirds vote pursuant to Section 4 of Article XIII A.
- (3) Assessments as provided by this article.

*(4) Fees or charges for property related services as provided by this article.*

*(b) For purposes of this article, fees for the provision of electrical or gas service shall not be deemed charges or fees imposed as an incident of property ownership.*

**SEC. 4. Procedures and Requirements for All Assessments.** *(a) An agency which proposes to levy an assessment shall identify all parcels which will have a special benefit conferred upon them and upon which an assessment will be imposed. The proportionate special benefit derived by each identified parcel shall be determined in relationship to the entirety of the capital cost of a public improvement, the maintenance and operation expenses of a public improvement, or the cost of the property related service being provided. No assessment shall be imposed on any parcel which exceeds the reasonable cost of the proportional special benefit conferred on that parcel. Only special benefits are assessable, and an agency shall separate the general benefits from the special benefits conferred on a parcel. Parcels within a district that are owned or used by any agency, the State of California or the United States shall not be exempt from assessment unless the agency can demonstrate by clear and convincing evidence that those publicly owned parcels in fact receive no special benefit.*

*(b) All assessments shall be supported by a detailed engineer's report prepared by a registered professional engineer certified by the State of California.*

*(c) The amount of the proposed assessment for each identified parcel shall be calculated and the record owner of each parcel shall be given written notice by mail of the proposed assessment, the total amount thereof chargeable to the entire district, the amount chargeable to the owner's particular parcel, the duration of the payments, the reason for the assessment and the basis upon which the amount of the proposed assessment was calculated, together with the date, time, and location of a public hearing on the proposed assessment. Each notice shall also include, in a conspicuous place thereon, a summary of the procedures applicable to the completion, return, and tabulation of the ballots required pursuant to subdivision (d), including a disclosure statement that the existence of a majority protest, as defined in subdivision (e), will result in the assessment not being imposed.*

*(d) Each notice mailed to owners of identified parcels within the district pursuant to subdivision (c) shall contain a ballot which includes the agency's address for receipt of the ballot once completed by any owner receiving the notice whereby the owner may indicate his or her name, reasonable identification of the parcel, and his or her support or opposition to the proposed assessment.*

*(e) The agency shall conduct a public hearing upon the proposed assessment not less than 45 days after mailing the notice of the proposed assessment to record owners of each identified parcel. At the public hearing, the agency shall consider all protests against the proposed assessment and tabulate the ballots. The agency shall not impose an assessment if there is a majority protest. A majority protest exists if, upon the conclusion of the hearing, ballots submitted in opposition to the assessment exceed the ballots submitted in favor of the assessment. In tabulating the ballots, the ballots shall be weighted according to the proportional financial obligation of the affected property.*

*(f) In any legal action contesting the validity of any assessment, the burden shall be on the agency to demonstrate that the property or properties in question receive a special benefit over and above the benefits conferred on the public at large and that the amount of any contested assessment is proportional to, and no greater than, the benefits conferred on the property or properties in question.*



*(g) Because only special benefits are assessable, electors residing within the district who do not own property within the district shall not be deemed under this Constitution to have been deprived of the right to vote for any assessment. If a court determines that the Constitution of the United States or other federal law requires otherwise, the assessment shall not be imposed unless approved by a two-thirds vote of the electorate in the district in addition to being approved by the property owners as required by subdivision (e).*

*SEC. 5. Effective Date. Pursuant to subdivision (a) of Section 10 of Article II, the provisions of this article shall become effective the day after the election unless otherwise provided. Beginning July 1, 1997, all existing, new, or increased assessments shall comply with this article. Notwithstanding the foregoing, the following assessments existing on the effective date of this article shall be exempt from the procedures and approval process set forth in Section 4:*

*(a) Any assessment imposed exclusively to finance the capital costs or maintenance and operation expenses for sidewalks, streets, sewers, water, flood control, drainage systems or vector control. Subsequent increases in such assessments shall be subject to the procedures and approval process set forth in Section 4.*

*(b) Any assessment imposed pursuant to a petition signed by the persons owning all of the parcels subject to the assessment at the time the assessment is initially imposed. Subsequent increases in such assessments shall be subject to the procedures and approval process set forth in Section 4.*

*(c) Any assessment the proceeds of which are exclusively used to repay bonded indebtedness of which the failure to pay would violate the Contract Impairment Clause of the Constitution of the United States.*

*(d) Any assessment which previously received majority voter approval from the voters voting in an election on the issue of the assessment. Subsequent increases in those assessments shall be subject to the procedures and approval process set forth in Section 4.*

*SEC. 6. Property Related Fees and Charges. (a) Procedures for New or Increased Fees and Charges. An agency shall follow the procedures pursuant to this section in imposing or increasing any fee or charge as defined pursuant to this article, including, but not limited to, the following:*

*(1) The parcels upon which a fee or charge is proposed for imposition shall be identified. The amount of the fee or charge proposed to be imposed upon each parcel shall be calculated. The agency shall provide written notice by mail of the proposed fee or charge to the record owner of each identified parcel upon which the fee or charge is proposed for imposition, the amount of the fee or charge proposed to be imposed upon each, the basis upon which the amount of the proposed fee or charge was calculated, the reason for the fee or charge, together with the date, time, and location of a public hearing on the proposed fee or charge.*

*(2) The agency shall conduct a public hearing upon the proposed fee or charge not less than 45 days after mailing the notice of the proposed fee or charge to the record owners of each identified parcel upon which the fee or charge is proposed for imposition. At the public hearing, the agency shall consider all protests against the proposed fee or charge. If written protests against the proposed fee or charge are presented by a majority of owners of the identified parcels, the agency shall not impose the fee or charge.*

*(b) Requirements for Existing, New or Increased Fees and Charges. A fee or charge shall not be extended, imposed, or increased by any agency unless it meets all of the following requirements:*



- (1) Revenues derived from the fee or charge shall not exceed the funds required to provide the property related service.*
- (2) Revenues derived from the fee or charge shall not be used for any purpose other than that for which the fee or charge was imposed.*
- (3) The amount of a fee or charge imposed upon any parcel or person as an incident of property ownership shall not exceed the proportional cost of the service attributable to the parcel.*
- (4) No fee or charge may be imposed for a service unless that service is actually used by, or immediately available to, the owner of the property in question. Fees or charges based on potential or future use of a service are not permitted. Standby charges, whether characterized as charges or assessments, shall be classified as assessments and shall not be imposed without compliance with Section 4.*
- (5) No fee or charge may be imposed for general governmental services including, but not limited to, police, fire, ambulance or library services, where the service is available to the public at large in substantially the same manner as it is to property owners. Reliance by an agency on any parcel map, including, but not limited to, an assessor's parcel map, may be considered a significant factor in determining whether a fee or charge is imposed as an incident of property ownership for purposes of this article. In any legal action contesting the validity of a fee or charge, the burden shall be on the agency to demonstrate compliance with this article.*
- (c) Voter Approval for New or Increased Fees and Charges. Except for fees or charges for sewer, water, and refuse collection services, no property related fee or charge shall be imposed or increased unless and until that fee or charge is submitted and approved by a majority vote of the property owners of the property subject to the fee or charge or, at the option of the agency, by a two-thirds vote of the electorate residing in the affected area. The election shall be conducted not less than 45 days after the public hearing. An agency may adopt procedures similar to those for increases in assessments in the conduct of elections under this subdivision.*
- (d) Beginning July 1, 1997, all fees or charges shall comply with this section.*

#### **SECTION 5. LIBERAL CONSTRUCTION.**

The provisions of this act shall be liberally construed to effectuate its purposes of limiting local government revenue and enhancing taxpayer consent.

#### **SECTION 6. SEVERABILITY.**

If any provision of this act, or part thereof, is for any reason held to be invalid or unconstitutional, the remaining sections shall not be affected, but shall remain in full force and effect, and to this end the provisions of this act are severable.

This report was prepared by Marianne O'Malley  
Under the supervision of Mac Taylor.



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EXHIBIT 4

Main Page	Secretary of State - Political Reform Division	Single Proposition Committees
Proposition Summaries	Financing California's Statewide Ballot Measures: 1996 Primary and General Elections	Multiple Proposition Committees

**NOVEMBER 5, 1996 GENERAL ELECTION  
 PROPOSITION 218: VOTER APPROVAL FOR LOCAL  
 GOVERNMENT TAXES. LIMITATIONS ON FEES,  
 ASSESSMENTS, AND CHARGES.**

**VOTE: YES 56.55  
 NO 43.45**

<b>SUPPORT</b>	
San Diego Right to Vote Committee for Proposition 218 ID# 961696	
<b>CONTRIBUTIONS RECEIVED</b>	
Under \$10,000	\$ 6,850
\$10,000 or more	0
<b>TOTAL CONTRIBUTIONS RECEIVED</b>	<b>\$ 6,850</b>
<b>TOTAL EXPENDITURES AND ACCRUED EXPENSES</b>	<b>\$ 350</b>
In-Kind contributions/payments	2,530
<b>TOTAL COSTS</b>	<b>\$ 2,880</b>
<b>SUPPORT</b>	
Yes on 218, A Project of Howard Jarvis Taxpayers Association ID# 931447	
<b>CONTRIBUTIONS RECEIVED</b>	
Under \$10,000	\$ 2,564,071
\$ 10,000 or more	572,069
<b>Itemized contributions of \$10,000 or more</b>	
Howard Jarvis Taxpayers Association	\$ 572,069

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<b>TOTAL CONTRIBUTIONS RECEIVED</b>	<b>\$ 3,136,140</b>
<b>TOTAL EXPENDITURES AND ACCRUED EXPENSES</b>	<b>\$ 3,279,446</b>
<b>In-Kind contributions/payments</b>	<b>284,091</b>
<b>TOTAL COSTS</b>	<b>\$ 3,563,537</b>
<b>OPPOSE</b>	
<b>Citizens for Voters Rights - No on 218, A Coalition of Law Enforcement Firefighters Educators, Business &amp; Labor ID# 960994</b>	
<b>CONTRIBUTIONS RECEIVED</b>	
<b>Under \$10,000</b>	<b>\$ 75,325</b>
<b>\$10,000 or more</b>	<b>746,361</b>
<b>Itemized contributions of \$10,000 or more</b>	
AMBAC Indemnity Corporation	\$10,000
California Federation of Teachers, CFT-COPE	25,000
California Professional Firefighters Ballot Issue Committee 130,962 California Public Securities Association	35,000
California State Council of Service Employees PA Issues Account – Defense & Advocacy Fund	100,000
California Teachers Association Issues PAC	335,000
Goldman, Sachs & Company	10,000
Hewlett Packard	10,000
Jones Hall Hill & White	10,000
League of California Cities	50,399
MBIA Insurance Corporation	20,000
Stone & Youngberg	10,000
<b>TOTAL CONTRIBUTIONS RECEIVED</b>	<b>\$ 821,686</b>
<b>TOTAL EXPENDITURES AND ACCRUED EXPENSES</b>	<b>\$ 733,578</b>
<b>In-Kind contributions/payments</b>	<b>139,417</b>



<b>TOTAL COSTS</b>	<b>\$ 872,995</b>
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Main Page	Secretary of State - Political Reform Division	Single Proposition Committees
Proposition Summaries	Financing California's Statewide Ballot Measures: 1996 Primary and General Elections	Multiple Proposition Committees

**NOVEMBER 5, 1996 GENERAL ELECTION**  
**PROPOSITION 218: VOTER APPROVAL FOR LOCAL**  
**GOVERNMENT TAXES. LIMITATIONS ON FEES,**  
**ASSESSMENTS, AND CHARGES.**  
**(PASSED)**

	RECEIPTS	EXPENDITURES
SUPPORT	\$ 3,142,990	\$ 3,566,417
OPPOSE	\$ 821,686	\$ 872,995

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EXHIBIT 5a

Statement of



November 5, 1996

*Prepared by:*

**BILL JONES**  
California Secretary of State



**STATE ARCHIVES RESEARCH ROOM  
DO NOT REMOVE**



The cover artwork was developed by **JORGE SALAZAR** of Arvin for the 1996 **"YOU'VE GOT THE POWER"** high school voter participation logo contest.

The Logo emphasizes the fundamental right of people in a free and democratic nation to choose the men and women who will represent our interests at all levels of government. By registering and voting, we exercise our "power of choice."

Bill Jones  
Secretary of State

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LEGISLATIVE INTENT SERVICE



## **Preface**

This Statement of Vote is prepared and issued pursuant to Elections Code Section 15501. It is the final and official tally of the results from California's November 5, 1996 Presidential General Election.

Keeping with our commitment to outstanding customer service, this is the earliest we have ever been able to prepare and distribute the Statement of Vote following an election.

This is also the last year in which the Statement of Vote and Supplement to the Statement of Vote will be prepared without the benefit of the new CALVOTER system, an electronic statewide voter file, that should be operational in time for the 1998 election cycle.

In future elections, CALVOTER will utilize new technologies to modernize California's elections system and will enable us to provide the public with even faster election results with greater statistical detail than ever before.

The CALVOTER system will also enable us to work with each county to help clean voter rolls to protect against voter fraud and save tax dollars associated with the mailing of election materials.

In addition to the new technological innovations for California's elections, we have also helped coordinate more than two dozen voter participation projects in 1996 to remind and encourage Californians to vote. From drive-up voter registration in Sacramento and San Diego to "Kids Voting" and Student Mock Elections in the classroom, these projects are designed to improve voter participation in the future.

California is fortunate to have the most outstanding state and local election officials in the country. Elections require a great deal of work and advance preparation. I would like to express my deepest appreciation to the team of elections, computer, and operations professionals on our "Team November" project who made the necessary preparations for this successful election. Special thanks go to Caren Daniels-Meade and Judy Riley who co-chaired our outstanding team.

Questions regarding any aspect of these election count figures or requests for additional copies of this report should be directed to the Elections Division, 1500 11<sup>th</sup> Street, 5<sup>th</sup> Floor, Sacramento, CA 95814; telephone (916) 657-2166.

**Bill Jones**  
Secretary of State



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**Certificate of the Secretary of State**

I, **BILL JONES**, Secretary of State of the State of California, hereby certify:

THAT the following is a full, true, and correct statement of the result of the official canvass of the returns of the November 5, 1996, Presidential General Election.

IN WITNESS WHEREOF, I  
hereunto set my hand and  
affix the Great Seal of  
California, at Sacramento,  
this 14th day of December, 1996.



**BILL JONES**  
Secretary of State



**Report of Registration by County as of the Close of Registration, October 7, 1996**

County Name	Eligible	Total Registered	Democratic	Republican	American Independent	Green	Libertarian	Natural Law	Peace & Freedom	Reform	Miscellaneous Non-Qualified	Declined to Affiliate
Alameda Percent	895,965	775,292 86.63%	459,113 59.22%	168,256 21.70%	11,637 1.63%	11,098 1.43%	3,145 0.41%	7,641 0.99%	4,675 0.60%	2,805 0.36%	4,988 0.64%	101,738 13.12%
Alpine Percent	949	803 84.62%	280 34.87%	338 42.09%	21 2.62%	3 0.37%	8 1.00%	0 0.00%	9 1.12%	7 0.87%	0 0.00%	137 17.06%
Amador Percent	24,575	19,103 77.73%	8,167 42.76%	8,388 43.91%	447 2.34%	76 0.40%	94 0.49%	3 0.02%	68 0.36%	168 0.88%	78 0.41%	1,614 8.45%
Butte Percent	156,378	122,593 78.40%	49,997 40.78%	52,659 42.96%	3,026 2.47%	888 0.72%	784 0.64%	58 0.06%	593 0.48%	420 0.34%	218 0.18%	13,950 11.38%
Calaveras Percent	31,245	23,314 74.62%	9,400 40.32%	10,574 45.35%	507 2.17%	148 0.63%	240 1.03%	6 0.03%	92 0.39%	191 0.82%	33 0.14%	2,125 9.11%
Colusa Percent	9,973	7,401 74.21%	3,191 43.12%	3,329 44.98%	172 2.32%	11 0.16%	24 0.32%	1 0.01%	28 0.38%	21 0.28%	50 0.68%	574 7.76%
Contra Costa Percent	613,333	555,734 90.61%	275,221 49.52%	191,236 34.41%	9,968 1.79%	3,734 0.67%	2,181 0.39%	1,932 0.35%	2,392 0.43%	3,469 0.62%	14,000 2.52%	51,601 9.29%
Del Norte Percent	18,133	12,948 71.41%	5,584 42.97%	4,850 37.46%	411 3.17%	85 0.60%	64 0.42%	2 0.02%	98 0.74%	148 1.14%	13 0.10%	1,745 13.48%
El Dorado Percent	113,158	80,889 70.79%	32,167 37.02%	41,428 47.68%	1,905 2.19%	481 0.53%	539 0.62%	88 0.10%	324 0.37%	582 0.67%	289 0.33%	8,108 10.48%
Fresno Percent	461,339	332,739 72.12%	157,477 47.33%	134,747 40.50%	6,328 1.80%	1,120 0.34%	1,524 0.46%	485 0.15%	1,423 0.43%	1,655 0.60%	157 0.05%	27,823 8.36%
Glenn Percent	18,688	11,814 70.80%	4,644 38.31%	5,608 47.45%	284 2.49%	20 0.17%	39 0.33%	8 0.06%	31 0.26%	19 0.18%	58 0.49%	1,097 9.29%
Humboldt Percent	97,479	88,812 91.11%	42,400 47.74%	27,205 30.83%	2,047 2.30%	4,123 4.64%	641 0.72%	107 0.12%	664 0.75%	465 0.52%	38 0.04%	11,122 12.92%
Imperial Percent	86,846	45,290 52.16%	24,237 53.62%	14,338 31.66%	830 1.83%	34 0.08%	142 0.31%	23 0.05%	334 0.74%	98 0.22%	97 0.21%	5,157 11.39%
Inyo Percent	13,893	10,265 74.97%	3,753 38.66%	5,128 49.94%	258 2.49%	47 0.46%	44 0.43%	3 0.03%	35 0.34%	18 0.18%	37 0.36%	946 9.22%
Kern Percent	393,312	280,128 71.22%	114,122 40.74%	130,231 48.49%	6,757 2.41%	568 0.20%	1,184 0.43%	168 0.08%	1,241 0.44%	1,278 0.48%	217 0.08%	24,358 8.70%
Kings Percent	76,432	42,984 56.24%	19,167 44.69%	18,458 42.94%	1,013 2.36%	58 0.13%	95 0.22%	9 0.02%	189 0.44%	120 0.28%	14 0.03%	3,865 8.99%
Lake Percent	44,632	30,422 68.16%	15,039 48.43%	10,748 35.32%	744 2.48%	182 0.80%	174 0.57%	12 0.04%	185 0.64%	217 0.71%	0 0.00%	3,143 10.33%
Lassen Percent	18,319	13,643 83.60%	5,818 41.16%	5,701 41.79%	470 3.44%	29 0.21%	86 0.48%	3 0.02%	41 0.30%	121 0.89%	104 0.78%	1,492 10.94%
Los Angeles Percent	4,517,259	3,857,805 85.40%	2,084,994 54.05%	1,174,039 30.43%	59,759 1.55%	13,608 0.35%	15,848 0.41%	30,878 0.80%	22,389 0.58%	21,635 0.66%	13,855 0.36%	421,000 10.9%
Madera Percent	64,958	47,689 73.38%	20,823 43.26%	21,179 44.43%	1,055 2.21%	133 0.28%	181 0.36%	45 0.09%	208 0.44%	161 0.34%	103 0.22%	3,988 6.3%
Marin Percent	177,123	148,552 83.87%	78,334 51.39%	43,821 29.80%	2,152 1.45%	2,810 1.76%	813 0.66%	181 0.11%	582 0.38%	1,311 0.88%	9 0.01%	20,779 13.98%
Mariposa Percent	13,190	10,591 80.30%	4,178 39.43%	4,741 44.76%	239 2.26%	88 0.83%	63 0.59%	4 0.04%	55 0.52%	51 0.48%	46 0.43%	1,128 10.85%
Mendocino Percent	61,443	47,741 77.70%	24,250 50.79%	14,173 29.69%	1,049 2.20%	1,205 2.52%	307 0.64%	21 0.04%	443 0.93%	231 0.48%	87 0.14%	5,995 12.68%
Merced Percent	114,859	75,011 65.31%	38,750 51.66%	25,997 34.66%	1,795 2.39%	145 0.19%	259 0.36%	28 0.03%	387 0.52%	201 0.27%	0 0.00%	7,451 9.83%
Modoc Percent	8,366	6,004 71.77%	2,419 40.29%	2,711 45.15%	174 2.80%	8 0.13%	27 0.46%	2 0.03%	23 0.38%	16 0.27%	0 0.00%	624 10.39%
Mono Percent	8,032	5,900 73.46%	1,930 32.71%	2,737 46.39%	170 2.88%	62 1.05%	63 0.90%	3 0.05%	34 0.58%	23 0.39%	0 0.00%	888 15.05%

LEGISLATIVE INTENT SERVICE (800) 666-1919

Report of Registration by County as of the Close of Registration, October 7, 1996

County Name	Eligible	Total Registered	Democratic	Republican	American Independent	Green	Libertarian	Natural Law	Peace & Freedom	Reform	Miscellaneous Non-Qualified	Declined to Affiliate
Monterey Percent	190,944	163,793 85.78%	82,774 50.54%	54,324 33.17%	3,309 2.02%	984 0.60%	681 0.42%	69 0.04%	800 0.49%	659 0.40%	799 0.49%	19,394 11.84%
Napa Percent	84,857	66,865 78.80%	32,031 47.90%	24,627 36.83%	1,353 2.02%	512 0.77%	313 0.47%	22 0.03%	293 0.44%	355 0.53%	276 0.41%	7,083 10.59%
Nevada Percent	69,566	58,434 84.00%	20,217 34.60%	27,561 47.17%	1,077 1.84%	1,224 2.09%	468 0.80%	8 0.01%	257 0.44%	830 1.42%	1 0.00%	6,791 11.62%
Orange Percent	1,621,789	1,275,775 78.66%	417,019 32.69%	657,995 51.58%	23,093 1.81%	3,878 0.30%	7,709 0.60%	4,264 0.33%	4,509 0.35%	11,268 0.88%	1,347 0.11%	144,693 11.34%
Placer Percent	158,851	130,387 82.08%	46,949 36.01%	63,977 49.07%	2,553 1.96%	690 0.53%	654 0.50%	55 0.04%	451 0.35%	1,195 0.92%	19 0.01%	13,844 10.62%
Plumas Percent	16,023	13,163 82.15%	5,521 41.94%	5,497 41.76%	386 2.93%	57 0.43%	59 0.45%	0 0.00%	74 0.56%	57 0.43%	15 0.11%	1,497 11.37%
Riverside Percent	912,073	637,139 69.86%	254,817 39.99%	293,890 46.13%	13,066 2.05%	1,294 0.20%	4,222 0.66%	2,224 0.35%	2,228 0.35%	4,830 0.76%	4,690 0.74%	55,878 8.77%
Sacramento Percent	786,437	617,964 78.58%	302,126 48.89%	228,224 36.93%	11,594 1.88%	3,107 0.50%	2,401 0.39%	1,325 0.21%	2,711 0.44%	5,247 0.85%	646 0.10%	60,583 9.80%
San Benito Percent	26,489	20,697 78.13%	10,145 49.02%	7,397 35.74%	456 2.20%	76 0.37%	107 0.52%	6 0.03%	99 0.48%	66 0.32%	36 0.17%	2,309 11.16%
San Bernardino Percent	1,016,572	742,975 73.09%	319,332 42.98%	317,053 42.67%	17,467 2.35%	1,526 0.21%	2,928 0.39%	1,461 0.20%	3,107 0.42%	5,844 0.79%	3,267 0.44%	70,990 9.55%
San Diego Percent	1,797,506	1,387,525 77.19%	508,149 36.62%	599,650 43.22%	28,984 2.09%	6,176 0.45%	9,247 0.67%	26,180 1.89%	6,813 0.49%	19,230 1.39%	1,358 0.10%	181,738 13.10%
San Francisco Percent	479,127	482,541 100.71%	294,566 61.04%	74,336 15.41%	7,415 1.54%	9,962 2.06%	2,807 0.58%	1,806 0.37%	3,582 0.74%	2,117 0.44%	285 0.06%	85,665 17.79%
San Joaquin Percent	328,330	248,770 75.77%	122,395 49.20%	98,639 39.65%	4,332 1.74%	807 0.32%	913 0.37%	143 0.06%	951 0.38%	625 0.25%	3,463 1.39%	16,502 6.63%
San Luis Obispo Percent	173,371	135,876 78.37%	53,651 39.49%	60,426 44.47%	2,712 2.00%	1,251 0.92%	796 0.59%	525 0.39%	495 0.36%	903 0.66%	1,573 1.16%	13,544 9.97%
San Mateo Percent	475,607	355,082 74.66%	184,444 51.94%	107,088 30.16%	5,881 1.68%	2,414 0.68%	1,606 0.45%	812 0.23%	1,593 0.45%	1,986 0.56%	128 0.04%	49,130 13.84%
Santa Barbara Percent	265,599	237,211 89.31%	101,448 42.77%	91,555 38.60%	4,947 2.09%	2,527 1.07%	1,157 0.49%	608 0.26%	1,075 0.45%	1,331 0.56%	2,071 0.87%	30,492 12.85%
Santa Clara Percent	983,192	807,767 82.16%	387,265 47.94%	269,571 33.37%	14,252 1.76%	4,846 0.60%	4,911 0.61%	1,419 0.18%	3,756 0.46%	5,220 0.65%	311 0.04%	116,216 14.39%
Santa Cruz Percent	161,965	148,663 91.70%	82,128 55.24%	37,068 24.93%	2,288 1.54%	4,440 2.99%	1,352 0.91%	247 0.17%	1,031 0.69%	1,448 0.97%	208 0.14%	18,453 12.41%
Shasta Percent	123,400	92,520 74.98%	35,533 38.41%	42,496 45.93%	2,632 2.84%	197 0.21%	504 0.54%	48 0.05%	442 0.48%	253 0.27%	131 0.14%	10,284 11.12%
Sierra Percent	2,564	2,310 90.09%	957 41.43%	958 41.47%	48 2.08%	17 0.74%	22 0.95%	1 0.04%	5 0.22%	10 0.43%	33 1.43%	259 11.21%
Siskiyou Percent	35,688	25,915 72.62%	11,428 44.10%	10,354 39.95%	740 2.86%	141 0.54%	141 0.54%	42 0.16%	132 0.51%	78 0.30%	7 0.03%	2,852 11.01%
Solano Percent	247,545	179,805 72.64%	94,883 52.77%	55,889 31.08%	3,495 1.94%	593 0.33%	594 0.33%	186 0.10%	701 0.39%	1,277 0.71%	218 0.12%	21,969 12.22%
Sonoma Percent	315,607	249,551 79.07%	132,453 53.08%	76,254 30.56%	4,173 1.67%	2,988 1.20%	1,416 0.57%	327 0.13%	1,495 0.60%	2,051 0.82%	1,186 0.48%	27,208 10.80%
Stanislaus Percent	267,905	187,020 69.81%	92,633 49.53%	69,571 37.20%	4,047 2.16%	437 0.23%	610 0.33%	61 0.03%	809 0.43%	1,499 0.80%	949 0.51%	16,404 8.77%
Sutter Percent	49,472	37,121 75.03%	13,605 36.65%	18,607 50.13%	862 2.32%	58 0.16%	184 0.50%	7 0.02%	159 0.43%	102 0.27%	846 2.28%	2,691 7.25%
Tehama Percent	39,961	29,238 73.17%	12,811 43.82%	12,170 41.62%	930 3.18%	31 0.11%	209 0.71%	5 0.02%	113 0.39%	63 0.22%	203 0.69%	2,703 9.24%

LEGISLATIVE INTENT SERVICE (800) 666-1917

**Report of Registration by County as of the Close of Registration, October 7, 1996**

County Name	Eligible	Total Registered	Democratic	Republican	American Independent	Green	Libertarian	Natural Law	Peace & Freedom	Reform	Miscellaneous Non-Qualified	Declined to Affiliate
Trinity Percent	10,463	8,451 80.77%	3,704 43.83%	3,244 38.38%	261 2.97%	73 0.86%	66 0.77%	0 0.00%	56 0.66%	28 0.33%	168 1.98%	862 10.20%
Tulare Percent	212,458	136,799 64.39%	59,278 43.33%	59,375 43.40%	3,360 2.46%	350 0.26%	526 0.38%	106 0.08%	648 0.47%	514 0.38%	58 0.04%	12,585 9.20%
Tuolumne Percent	36,081	30,438 84.40%	13,367 43.92%	12,880 42.32%	678 2.23%	168 0.52%	147 0.48%	8 0.03%	118 0.39%	361 1.18%	49 0.16%	2,870 8.77%
Ventura Percent	456,865	382,417 83.70%	152,402 39.85%	164,808 43.10%	8,110 2.12%	2,680 0.70%	1,880 0.49%	1,100 0.29%	1,783 0.46%	3,014 0.79%	2,338 0.61%	44,342 11.60%
Yolo Percent	103,679	83,334 80.38%	45,058 54.07%	28,045 30.06%	1,411 1.69%	1,012 1.21%	357 0.43%	118 0.14%	315 0.38%	403 0.48%	432 0.52%	9,185 11.02%
Yuba Percent	41,350	27,084 65.50%	11,364 42.03%	11,387 42.08%	844 3.12%	86 0.32%	140 0.52%	2 0.01%	132 0.49%	88 0.32%	8 0.02%	3,005 11.10%
State Total Percent	19,528,891	15,662,075 80.21%	7,387,504 47.17%	5,704,538 36.42%	290,172 1.85%	95,090 0.61%	77,865 0.50%	84,865 0.54%	77,216 0.49%	108,381 0.69%	81,584 0.39%	1,775,282 11.33%



### Voter Participation Statistics by County

Number and Percent of Votes Cast

County	Precincts	Eligible to Register	Registered to Vote	Precinct Voters	Absent Voters	Total Voters	Percent of Registered	Percent of Eligible
Alameda	1,034	895,965	775,292	401,750	71,887	473,437	61.07%	52.84%
Alpine	5	949	803	0	633	633	78.83%	66.70%
Amador	38	24,575	19,103	10,722	4,081	14,783	77.39%	60.15%
Butte	232	158,378	122,593	61,979	18,874	80,853	65.79%	51.58%
Calaveras	36	31,245	23,314	11,751	5,989	17,720	76.01%	56.71%
Colusa	19	9,973	7,401	4,232	1,510	5,742	77.58%	57.58%
Contra Costa	975	813,333	555,734	275,584	80,819	356,383	64.13%	58.11%
Del Norte	18	18,133	12,948	6,023	3,020	9,043	69.84%	49.87%
El Dorado	172	113,158	88,889	49,505	15,550	65,055	74.87%	57.49%
Fresno	980	461,339	332,739	177,572	38,640	216,212	64.98%	46.87%
Glenn	22	16,688	11,814	7,082	1,813	8,995	76.14%	53.91%
Humboldt	132	97,479	88,812	45,146	11,240	56,388	63.49%	57.84%
Imperial	75	88,848	45,290	24,132	3,688	27,818	61.42%	32.03%
Inyo	31	13,693	10,265	6,004	1,711	7,715	75.16%	56.34%
Kern	522	393,312	280,128	144,936	28,588	173,524	61.94%	44.12%
Kings	242	78,432	42,984	23,482	2,970	26,452	61.54%	34.81%
Lake	59	44,832	30,422	18,485	5,802	22,287	73.28%	49.94%
Lassen	37	16,319	13,643	8,356	1,687	10,043	73.61%	61.54%
Los Angeles	6,205	4,517,259	3,857,805	2,109,757	396,033	2,505,790	64.95%	55.47%
Madera	83	64,958	47,669	23,818	7,714	31,533	66.15%	48.54%
Marin	185	177,123	148,552	83,710	23,917	117,827	79.18%	66.41%
Mariposa	21	13,180	10,591	6,082	2,048	8,110	76.57%	61.48%
Mendocino	87	61,443	47,741	28,477	8,949	33,428	70.02%	54.40%
Merced	83	114,859	75,011	36,841	10,784	47,625	63.48%	41.46%
Modoc	20	8,366	6,004	3,703	700	4,403	73.33%	52.63%
Mono	13	8,032	5,900	3,408	875	4,383	74.29%	54.57%
Monterey	243	190,944	163,793	75,448	35,438	110,882	67.70%	58.07%
Napa	113	84,857	68,885	38,134	11,788	49,920	74.88%	58.83%
Nevada	121	89,568	58,434	33,515	10,411	43,928	75.17%	63.14%
Orange	2,018	1,621,789	1,275,775	691,697	182,320	874,017	68.51%	53.89%
Placer	295	158,851	130,387	73,750	21,858	95,406	73.17%	60.08%
Plumas	29	18,023	13,183	7,207	2,740	9,947	75.57%	62.08%
Riverside	1,202	912,073	837,139	314,103	81,800	395,903	62.14%	43.41%
Sacramento	1,055	788,437	617,984	340,939	75,325	416,264	67.36%	52.93%
San Benito	57	28,489	20,697	12,003	2,219	14,222	68.72%	53.69%
San Bernardino	1,018	1,018,572	742,975	347,985	76,885	424,850	57.18%	41.79%
San Diego	2,520	1,797,506	1,387,525	684,359	242,869	907,228	65.38%	50.47%
San Francisco	658	479,127	482,541	223,339	75,309	298,648	61.89%	62.33%
San Joaquin	497	328,330	248,770	118,088	29,799	147,887	59.45%	45.04%
San Luis Obispo	214	173,371	135,878	72,205	30,847	102,852	75.70%	59.32%
San Mateo	522	475,607	355,082	185,603	68,861	254,464	71.66%	53.50%
Santa Barbara	387	285,599	237,211	116,950	35,363	152,313	64.21%	57.35%
Santa Clara	1,355	983,192	807,787	450,891	84,558	535,449	66.29%	54.48%
Santa Cruz	237	181,965	148,663	75,804	28,281	104,085	70.01%	64.28%
Shasta	133	123,400	92,520	49,857	14,188	64,045	69.22%	51.90%
Sierra	12	2,584	2,310	1,274	464	1,738	75.24%	67.78%
Siskiyou	80	35,688	25,915	15,118	4,510	19,628	75.74%	55.00%
Solano	250	247,545	179,805	95,190	23,982	119,172	66.28%	48.14%
Sonoma	474	315,607	249,551	141,801	41,782	183,383	73.49%	58.10%
Stanislaus	284	287,905	187,020	81,041	39,633	120,674	64.52%	45.04%
Sutter	59	49,472	37,121	17,934	7,241	25,175	67.82%	50.89%
Tehama	47	39,961	29,238	17,071	3,743	20,814	71.18%	52.09%
Trinity	22	10,463	8,451	4,087	1,932	5,999	70.99%	57.34%
Tulare	275	212,456	136,799	75,058	12,058	87,112	63.68%	41.00%
Tuolumne	69	36,061	30,438	17,541	4,715	22,258	73.12%	61.72%
Ventura	618	458,885	382,417	189,042	64,824	253,866	66.38%	55.57%
Yolo	129	103,879	83,334	47,755	11,899	59,454	71.34%	57.34%
Yuba	44	41,350	27,084	12,362	3,771	18,133	59.57%	39.02%
State Totals	28,359	19,528,991	15,682,075	8,185,425	2,078,085	10,283,490	65.53%	52.56%
Percent			80.21%	79.75%	20.25%			



## Comparative Voter Registration and Voter Participation Statistics for Statewide General Elections – 1910 through 1996

General Date	Voting Age Population	Registration				VAP Percent	Votes Cast		Turnout of VAP *
		Democratic	Republican	Other	Total		Total Votes	Turnout of Registered	
Nov. 8, 1910	725,000						393,893		54.33
Nov. 5, 1912 P	1,569,000				987,368		707,776	71.68	45.11
Nov. 3, 1914	1,726,000				1,219,345		961,868	78.88	55.73
Nov. 7, 1916 P	1,806,000				1,314,446		1,045,858	79.57	57.91
Nov. 5, 1918	1,918,000				1,203,898		714,525	59.35	37.25
Nov. 2, 1920 P	2,090,000				1,374,184		987,632	71.87	47.26
Nov. 7, 1922	2,420,000	319,107	968,429	244,848	1,532,384	63.32	1,000,997	65.32	41.36
Nov. 4, 1924 P	2,754,000	397,962	1,183,672	240,723	1,822,357	66.17	1,336,598	73.34	48.53
Nov. 2, 1926	2,989,000	410,290	1,298,062	204,510	1,912,862	64.00	1,212,452	63.38	40.56
Nov. 6, 1928 P	3,240,000	592,161	1,535,751	185,904	2,313,816	71.41	1,846,077	79.78	56.98
Nov. 4, 1930	3,463,000	456,096	1,638,575	150,557	2,245,228	64.83	1,444,872	64.35	41.72
Nov. 8, 1932 P	3,573,000	1,161,482	1,565,264	162,267	2,889,013	80.86	2,330,132	80.65	65.22
Nov. 6, 1934	3,674,000	1,555,705	1,430,198	154,211	3,140,114	85.47	2,360,916	75.19	64.26
Nov. 3, 1936 P	3,844,000	1,882,014	1,244,507	127,300	3,253,821	84.65	2,712,342	83.36	70.56
Nov. 8, 1938	4,035,000	2,144,360	1,293,929	173,127	3,611,416	89.50	2,695,904	74.65	66.81
Nov. 5, 1940 P	4,214,000	2,419,628	1,458,373	174,394	4,052,395	96.17	3,300,410	81.44	78.32
Nov. 3, 1942	4,693,000	2,300,206	1,370,069	150,491	3,820,776	81.41	2,264,288	59.26	48.25
Nov. 7, 1944 P	5,427,000	2,418,965	1,548,395	173,971	4,141,331	76.31	3,566,734	86.13	65.72
Nov. 5, 1946	5,800,000	2,541,720	1,637,246	204,997	4,383,963	75.59	2,759,641	62.95	47.58
Nov. 2, 1948 P	6,106,000	2,892,222	1,908,170	261,605	5,061,997	82.90 <sup>3</sup>	4,076,981	80.54	66.77
Nov. 7, 1950	6,458,000	3,062,205	1,944,812	237,820	5,244,837	81.21	3,845,757	73.32	59.55
Nov. 4, 1952 P	7,033,000	3,312,668	2,455,713	229,919	5,998,300	85.29	5,209,692	86.85	74.07
Nov. 2, 1954	7,565,000	3,266,831	2,415,249	203,157	5,885,237	77.80	4,101,692	69.69	54.22
Nov. 6, 1956 P	8,208,000	3,575,635	2,646,249	186,937	6,408,821	78.08	5,547,621	86.56	67.59
Nov. 4, 1958	8,909,000	3,875,630	2,676,565	200,226	6,752,421	75.79	5,366,053	79.47	60.23
Nov. 8, 1960 P	9,587,000	4,295,330	2,926,408	242,888	7,464,626	77.86	6,592,591	88.32	68.77
Nov. 6, 1962	10,305,000	4,289,997	3,002,038	239,176	7,531,211	73.08	5,929,602	78.73	57.54
Nov. 3, 1964 P	10,959,000	4,737,886	3,181,272	264,985	8,184,143	74.68	7,233,067	88.38	66.00
Nov. 8, 1966	11,448,000	4,720,597	3,350,990	269,281	8,340,868	72.86	6,605,866	79.20	57.70
Nov. 5, 1968 P	11,813,000	4,682,661	3,462,131	442,881	8,587,673	72.70	7,363,711	85.75	62.34
Nov. 3, 1970	12,182,000	4,781,282	3,469,046	456,019	8,706,347	71.47	6,633,400	76.19	54.45
Nov. 7, 1972 P	13,322,000	5,864,745	3,840,620	760,850	10,466,215	78.56	8,595,950	82.13	64.52
Nov. 6, 1973 S	13,512,000	5,049,959	3,422,291	617,569	9,089,819	67.07	4,329,017	47.62	32.04
Nov. 5, 1974	13,703,000	5,623,831	3,574,624	729,909	9,928,364	72.45	6,364,597	64.11	46.45
Nov. 2, 1976 P	14,196,000	5,725,718	3,468,439	786,331	9,980,488	70.30	8,137,202	81.53	57.32
Nov. 7, 1978	14,781,000	5,729,959	3,465,384	934,643	10,129,986	68.53	7,132,210	70.41	48.25
Nov. 6, 1979 S	15,083,000	5,594,018	3,406,854	1,006,085	10,006,957	66.35	3,740,800	37.38	24.80
Nov. 4, 1980 P	15,384,000	6,043,262	3,942,768	1,375,593	11,361,623	73.85	8,775,459	77.24	57.04
Nov. 2, 1982	15,984,000	6,150,716	4,029,684	1,378,699	11,559,099	72.32	8,064,314	69.78	50.45
Nov. 6, 1984 P	16,582,000	6,804,263	4,769,129	1,500,238	13,073,630	78.84	9,796,375	74.93	59.08
Nov. 4, 1986	17,561,000	6,524,496	4,912,581	1,396,843	12,833,920	73.08	7,617,142	59.35	43.38
Nov. 8, 1988 P	19,052,000	7,052,368	5,406,127	1,546,378	14,004,873	73.51	10,194,539	72.81	53.51
Nov. 6, 1990	19,245,000	6,671,747	5,290,202	1,516,078	13,478,027	70.03	7,899,131	58.61	41.05
Nov. 3, 1992 P	20,864,000	7,410,914	5,593,555	2,097,004	15,101,473	72.38	11,374,565	75.32	54.52
Nov. 2, 1993 S	20,797,000	7,110,142	5,389,313	2,043,168	14,524,623	68.01	5,282,443	36.37	27.73
Nov. 8, 1994	18,946,000	7,219,635	5,472,391	2,031,758	14,723,784	77.71	8,900,593	60.45	46.98
Nov. 5, 1996 P	19,526,991	7,387,504	5,704,536	2,570,035	15,662,075	80.21	10,263,490	65.53	52.56

Note 1: P indicates a presidential election year.

Note 2: In 1911 women were given the franchise.

Note 3: 1972 was the first year that 18- to 21-year-olds were eligible to register and vote in a general election. The registration period was also extended that year by reducing the 54-day pre-election cut-off period to 30 days.

Note 4: In 1975, the cut-off period for registering to vote was reduced by the Legislature to 29 days prior to the election.

\* VAP = Voting Age Population

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## Signature Requirements for Qualifying Initiative and Referendum Petitions in 1996, 1997, and 1998

(Based on the Number of Persons who Voted for the Office of Governor at the 1994 General Election)

**Initiative Constitutional Measure** 693,230  
(8 percent of 8,665,375 (Art. II, § 8(b), Constitution))

**Initiative Statutory Measure** 433,269  
(5 percent of 8,665,375 (Art. II, § 8(b), Constitution))

**Referendum Measure** 433,269  
(5 percent of 8,665,375 (Art. II, § 9(b), Constitution))

## New Political Party Qualifications for the 1998 Primary Election

(Based on the Number of Persons who Voted at the 1994 General Election)

**New Political Party by Registration** 89,006  
(1 percent of 8,900,593 (§ 5100(b), Elections Code))

**New Political Party by Petition** 890,060  
(10 percent of 8,900,593 (§ 5100(c), Elections Code))

## Voting Systems Used by the Counties

November 5, 1996 Presidential General Election

### A. Mark Sense Ballot Card

1. **D.F.M. Mark-a-Vote:** Butte, Contra Costa, Lake, Madera, Mariposa, Riverside, San Joaquin, Santa Barbara, Santa Cruz, Sonoma, Sutter, and Tulare
2. **B.R.C. Optech:** Amador and San Mateo
3. **A.I.S. 350/550:** Merced, Nevada and Tuolumne
4. **Global Accu-Vote ES-2000:** Humboldt

### B. Punch Card

#### 1. Datavote

Alpine, Calaveras, Colusa, Del Norte, El Dorado, Glenn, Imperial, Inyo, Kern, Kings, Lassen, Modoc, Mono, Monterey, Napa, Orange, Placer, Plumas, San Benito, San Luis Obispo, Sierra, Siskiyou, Stanislaus, Tehama, Trinity, Ventura, Yolo, and Yuba

#### 2. Votomatic

Format 228: Shasta

Format 312: Alameda, Fresno, Los Angeles, Marin, Mendocino, San Diego, San Francisco, and Solano

Poll Star: Sacramento, San Bernardino and Santa Clara



**Official Declaration of the Result of the General Election  
Held on Tuesday, November 5, 1996, throughout the State of California  
on Statewide Measures Submitted to a Vote of Electors**

The following laws were adopted by vote of voters:

<u>Number on Ballot</u>	<u>Ballot Title</u>
204.	Safe, Clean, Reliable Water Supply Act. (Senate Bill 900, Statutes of 1996, Chapter 135)
206.	Veterans' Bond Act of 1996. (Senate Bill 852, Statutes of 1996, Chapter 161)
208.	Campaign contributions and Spending Limits. Restricts Lobbyists. Initiative Statute.
209.	Prohibition Against Discrimination or Preferential Treatment by State and Other Public Entities. Initiative Constitutional Amendment.
210.	Minimum Wage Increase. Initiative Statute.
213.	Limitation on Recovery to Felons, Uninsured Motorists, Drunk Drivers. Initiative Statute.
215.	Medical Use of Marijuana. Initiative Statute.
218.	Voter Approval for Local Government Taxes. Limitations on Fees, Assessments, and Charges. Initiative Statute.

The following proposed laws were defeated by vote of voters:

<u>Number on Ballot</u>	<u>Ballot Title</u>
205.	Youthful and Adult Offender Local Facilities Bond Act of 1966. (Assembly Bill 3116, Statutes of 1996, Chapter 160)
207.	Attorneys. Fees. Right to Negotiate. Frivolous Lawsuits. Initiative Statute.
211.	Attorney-Client Fee Arrangements. Securities Fraud. Lawsuits. Initiative Statute.
212.	Campaign Contributions and Spending Limits. Repeals Gift and Honoraria Limits. Restricts Lobbyists. Initiative Statute.
214.	Health Care. Consumer Protection. Initiative Statute.
216.	Health Care. Consumer Protection. Taxes on Corporate Restructuring. Initiative Statute.
217.	Top Income Tax Brackets. Reinstatement. Revenues to Local Agencies. Initiative Statute.



**Votes For and Against November 5, 1996, Statewide Ballot Measures  
and Constitutional Amendments**

Number On Ballot	For		Against	
	Votes	Percent	Votes	Percent
204.	6,019,951	62.84	3,560,084	37.16
205.	3,834,745	40.62	5,606,214	59.38
206.	4,993,677	53.56	4,330,354	46.44
207.	3,206,350	34.22	6,163,645	65.78
208.	5,716,349	61.27	3,612,813	38.73
209.	5,268,462	54.55	4,388,733	45.45
210.	5,937,569	61.45	3,724,598	38.55
211.	2,414,216	25.65	6,997,003	74.35
212.	4,539,403	49.16	4,694,166	50.84
213.	7,278,167	76.83	2,194,380	23.17
214.	3,886,699	42.04	5,358,331	57.96
215.	5,382,915	55.58	4,301,960	44.42
216.	3,540,845	38.76	5,593,589	61.24
217.	4,575,550	49.20	4,723,873	50.80
218.	5,202,429	56.55	3,996,702	43.45

**Effective Date**

"An initiative . . . approved by a majority of votes thereon takes effect the day after the election unless the measure provides otherwise. . . . If provisions of 2 or more measures approved at the same election conflict, those of the measure receiving the highest affirmative vote shall prevail."

See Cal. Const., Art. II, Sec. 10.

"A proposed [legislative] amendment or revision shall be submitted to the electors and if approved by a majority of votes thereon takes effect the day after the election unless the measure provides otherwise. If provisions of 2 or more measures approved at the same election conflict, those of the measure receiving the highest affirmative vote shall prevail."

See Cal. Const., Art. XVIII, Sec. 4.

Bond Proposals submitted to the electors by the Legislature also become effective the day following approval by a majority of votes thereon.

See Cal. Const., Art. XVI, Sec. 1



## State Ballot Measures

	Proposition No. 216 Health Care, Consumer Protection, Taxes on Corporate Restructuring.			Proposition No. 217 Top Income Tax Brackets, Reinstatement, Revenues to Local Agencies.			Proposition No. 218 Voter Approval for Local Government Taxes, Limitation on Fees, Assessments, and Charges.		
	For	Against	Votes not Cast in Race	For	Against	Votes not Cast in Race	For	Against	Votes not Cast in Race
Alameda Percent	191,547 45.82%	226,523 54.18%	55,090 11.84%	255,722 60.32%	168,223 39.68%	49,215 10.40%	195,325 47.28%	217,835 52.72%	60,000 12.68%
Alpine Percent	261 45.16%	317 54.84%	55 8.69%	322 55.42%	259 44.58%	52 8.21%	386 87.01%	180 32.99%	57 9.00%
Amador Percent	4,309 31.80%	9,240 68.20%	1,234 8.35%	6,682 48.70%	7,038 51.30%	1,063 7.19%	8,682 63.66%	4,957 36.34%	1,144 7.74%
Butte Percent	25,244 34.83%	47,551 65.32%	7,825 9.71%	36,118 48.85%	37,816 51.15%	6,586 8.29%	46,850 82.67%	27,902 37.33%	5,888 7.28%
Calaveras Percent	5,856 34.24%	10,865 65.76%	1,199 8.77%	8,532 52.05%	7,861 47.95%	1,327 7.40%	10,547 84.48%	5,816 35.54%	1,357 7.08%
Colusa Percent	1,379 25.99%	3,927 74.01%	436 7.59%	2,194 41.07%	3,148 58.93%	400 8.87%	3,266 63.84%	1,850 36.16%	626 10.90%
Contra Costa Percent	123,110 38.02%	200,735 61.98%	32,340 9.98%	166,346 50.47%	163,259 49.53%	26,580 7.48%	176,043 54.37%	147,745 45.63%	32,397 9.10%
Del Norte Percent	3,191 38.56%	5,085 61.44%	787 8.48%	4,597 56.05%	3,605 43.95%	841 9.30%	5,650 68.44%	2,605 31.56%	788 8.71%
El Dorado Percent	20,733 34.18%	39,907 65.81%	4,415 8.79%	28,785 47.57%	31,726 52.43%	4,544 8.88%	38,309 64.42%	21,157 35.58%	5,589 8.59%
Fresno Percent	66,126 35.53%	119,994 64.47%	30,092 13.92%	88,950 48.57%	102,058 53.43%	25,204 11.68%	118,426 82.28%	71,735 37.72%	28,051 12.05%
Glenn Percent	2,009 24.77%	6,103 75.23%	883 9.82%	3,226 38.52%	5,149 61.48%	620 8.89%	5,599 68.73%	2,791 33.27%	605 8.73%
Humboldt Percent	21,745 42.07%	29,943 57.93%	4,688 8.33%	31,100 58.59%	21,982 41.41%	3,304 5.85%	29,786 56.34%	23,086 43.66%	3,514 6.23%
Imperial Percent	9,351 37.09%	15,859 62.91%	2,608 9.38%	11,141 47.03%	12,548 52.97%	4,129 14.84%	14,265 60.19%	9,433 39.81%	4,120 14.81%
Inyo Percent	2,450 35.80%	4,384 64.20%	871 11.29%	3,458 48.36%	3,692 51.64%	565 7.32%	4,581 63.87%	2,569 36.03%	585 7.58%
Kern Percent	49,324 30.80%	111,886 69.40%	12,243 7.06%	61,706 37.91%	101,056 62.09%	10,681 8.18%	108,934 66.83%	54,059 33.17%	10,480 6.03%
Kings Percent	8,208 34.84%	15,287 65.06%	2,957 11.18%	11,725 48.47%	12,463 51.53%	2,264 8.58%	14,736 81.21%	9,338 38.79%	2,378 8.96%
Lake Percent	7,479 38.12%	13,225 63.88%	1,578 7.09%	11,331 54.09%	9,619 45.91%	1,333 5.88%	13,544 84.51%	7,450 35.49%	1,281 5.76%
Lassen Percent	2,990 32.82%	6,119 67.18%	934 9.70%	5,009 52.97%	4,447 47.03%	587 5.84%	6,284 86.22%	3,208 33.78%	55 .55%
Los Angeles Percent	903,758 41.24%	1,287,528 58.76%	314,504 12.55%	1,111,831 49.83%	1,119,811 50.17%	274,348 10.85%	1,178,188 53.40%	1,028,109 46.60%	299,495 11.95%
Madera Percent	9,554 33.33%	19,113 66.67%	2,880 9.07%	12,883 45.28%	15,581 54.74%	3,063 9.72%	18,775 65.98%	9,689 34.04%	3,063 9.72%
Marin Percent	46,660 44.88%	57,283 55.11%	13,694 11.03%	53,188 49.54%	54,181 50.46%	10,258 8.72%	49,299 48.91%	55,785 53.09%	12,533 10.85%
Mariposa Percent	2,889 38.15%	4,604 61.85%	537 8.62%	3,988 51.81%	3,691 48.19%	451 5.59%	4,971 64.00%	2,888 35.10%	451 5.56%
Mendocino Percent	12,965 43.77%	16,654 56.23%	3,807 11.39%	17,436 57.21%	13,039 42.79%	2,951 8.83%	18,649 54.81%	13,838 45.39%	2,839 8.79%

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## State Ballot Measures

	Proposition No. 216 Health Care, Consumer Protection, Taxes on Corporate Restructuring.			Proposition No. 217 Top Income Tax Brackets, Reinstatement, Revenues to Local Agencies.			Proposition No. 218 Voter Approval for Local Government Taxes, Limitation on Fees, Assessments, and Charges.		
	For	Against	Votes not Cast in Race	For	Against	Votes not Cast in Race	For	Against	Votes not Cast in Race
Merced Percent	13,885 32.83%	28,447 67.04%	5,193 10.80%	21,432 49.47%	21,891 50.53%	4,302 8.03%	25,387 58.54%	17,880 41.46%	4,258 8.04%
Modoc Percent	1,300 33.70%	2,557 66.30%	548 12.40%	1,887 48.38%	2,181 53.61%	335 7.61%	2,878 70.20%	1,222 29.80%	303 6.88%
Mono Percent	1,650 41.87%	2,310 58.33%	423 9.85%	2,181 53.73%	1,878 46.27%	324 7.38%	2,434 62.98%	1,430 37.01%	519 11.84%
Monterey Percent	40,337 40.73%	59,697 59.27%	11,848 10.88%	53,773 52.52%	48,607 47.48%	8,502 7.87%	57,883 57.32%	43,088 42.68%	9,901 8.93%
Napa Percent	17,784 38.88%	28,222 61.34%	3,914 7.84%	24,027 52.23%	21,971 47.77%	3,922 7.88%	27,697 60.88%	17,723 39.02%	4,500 9.01%
Nevada Percent	14,491 35.57%	28,253 64.43%	3,182 7.24%	19,280 48.54%	22,147 53.46%	2,499 5.89%	28,579 64.28%	14,783 35.74%	2,584 5.84%
Orange Percent	284,331 35.24%	522,501 64.76%	66,560 7.82%	313,980 38.45%	502,681 61.55%	56,731 6.50%	505,478 62.27%	306,287 37.73%	61,847 7.08%
Placer Percent	30,007 33.88%	59,552 68.12%	6,806 7.14%	39,992 44.41%	50,084 55.59%	5,308 5.57%	55,751 62.50%	33,450 37.50%	6,184 6.46%
Plumas Percent	2,978 32.40%	6,208 67.80%	783 7.87%	4,702 50.37%	4,632 49.63%	613 6.18%	5,808 64.92%	3,139 35.08%	1,000 10.05%
Riverside Percent	141,820 38.13%	230,140 61.87%	23,788 6.01%	173,378 48.85%	196,711 53.15%	25,671 6.49%	230,101 62.17%	140,043 37.83%	25,814 6.47%
Sacramento Percent	128,127 34.98%	238,408 65.04%	49,731 11.95%	200,147 54.00%	170,487 46.00%	45,650 10.87%	215,688 58.30%	154,280 41.70%	48,318 11.13%
San Benito Percent	4,887 35.88%	8,482 64.41%	1,053 7.40%	6,722 51.80%	6,258 48.20%	1,244 8.75%	7,682 59.57%	5,213 40.43%	1,327 9.33%
San Bernardino Percent	139,498 37.08%	236,608 62.91%	48,748 11.47%	181,258 47.88%	197,451 52.14%	46,141 10.88%	225,471 59.51%	153,423 40.49%	45,958 10.82%
San Diego Percent	275,157 34.93%	512,805 65.07%	119,468 13.17%	379,647 48.55%	435,880 53.45%	91,701 10.11%	491,688 60.42%	322,086 39.58%	93,484 10.30%
San Francisco Percent	142,042 58.00%	102,847 42.00%	53,759 18.00%	184,573 63.99%	92,611 30.01%	41,484 13.88%	93,644 37.82%	155,268 62.38%	49,738 16.65%
San Joaquin Percent	44,710 32.39%	93,345 67.81%	9,800 8.83%	60,839 44.89%	75,308 55.31%	11,708 7.82%	79,709 58.86%	56,173 41.34%	11,973 8.10%
San Luis Obispo Percent	37,529 40.83%	54,397 59.17%	10,828 10.82%	46,360 49.75%	46,828 50.25%	9,664 9.40%	56,425 61.18%	35,801 38.82%	10,828 10.33%
San Mateo Percent	93,023 41.17%	132,943 58.83%	28,463 11.18%	117,228 50.77%	113,689 49.23%	23,514 8.24%	118,943 52.20%	108,555 47.72%	28,931 10.58%
Santa Barbara Percent	57,343 41.33%	81,410 58.67%	13,414 8.82%	70,429 50.37%	69,408 49.63%	12,332 8.10%	77,481 55.95%	60,995 44.05%	13,711 9.01%
Santa Clara Percent	178,545 38.58%	281,035 61.42%	77,889 14.54%	245,122 51.93%	226,877 48.07%	63,450 11.85%	249,342 53.89%	212,514 40.01%	73,593 13.74%
Santa Cruz Percent	45,200 47.46%	50,038 52.54%	8,847 8.50%	57,690 59.16%	39,818 40.84%	6,577 6.32%	51,138 53.79%	43,931 46.21%	9,018 8.66%
Shasta Percent	18,886 28.88%	41,804 71.12%	5,545 8.88%	24,378 41.14%	34,874 58.86%	4,793 7.48%	38,449 62.08%	22,280 37.94%	5,318 8.30%
Sierra Percent	503 32.43%	1,048 67.57%	167 10.78%	745 45.82%	881 54.18%	112 6.44%	1,041 63.87%	589 36.13%	108 6.21%

### State Ballot Measures

	Proposition No. 216 Health Care, Consumer Protection, Taxes on Corporate Restructuring.			Proposition No. 217 Top Income Tax Brackets, Reinstatement, Revenues to Local Agencies.			Proposition No. 218 Voter Approval for Local Government Taxes, Limitation on Fees, Assessments, and Charges.		
	For	Against	Votes not Cast in Race	For	Against	Votes not Cast in Race	For	Against	Votes not Cast in Race
Siskiyou Percent	5,592 30.88%	12,459 69.02%	1,577 8.03%	8,812 47.28%	9,598 52.71%	1,418 7.22%	11,055 82.42%	6,657 37.58%	1,918 9.78%
Solano Percent	42,195 39.02%	65,951 60.80%	11,028 9.25%	56,723 51.69%	53,238 48.41%	9,213 7.73%	63,055 57.29%	47,003 42.71%	9,114 7.85%
Sonoma Percent	65,577 39.88%	98,850 60.12%	18,870 10.29%	84,210 58.12%	73,856 43.88%	15,431 8.42%	88,725 53.84%	76,074 48.18%	18,498 10.00%
Stanislaus Percent	34,156 31.11%	75,821 68.89%	10,897 9.03%	58,599 51.53%	55,110 48.47%	8,985 5.77%	66,063 58.22%	47,405 41.78%	7,208 5.97%
Sutter Percent	6,694 28.84%	16,518 71.10%	1,957 7.78%	9,880 41.80%	13,868 58.40%	1,419 5.84%	15,128 64.00%	8,479 35.92%	1,580 6.20%
Tehama Percent	5,362 28.28%	13,587 71.72%	1,855 8.91%	8,983 45.48%	10,742 54.51%	1,109 5.33%	12,152 81.84%	7,499 38.18%	1,183 5.59%
Trinity Percent	1,847 34.03%	3,580 65.87%	572 9.53%	2,987 52.50%	2,703 47.50%	309 5.15%	3,581 82.98%	2,107 37.04%	311 5.18%
Tulare Percent	24,498 30.85%	54,904 69.10%	7,685 8.82%	31,653 39.58%	48,328 60.42%	7,108 8.18%	49,568 81.88%	30,565 38.14%	8,954 7.89%
Tuolumne Percent	8,985 33.53%	13,807 66.47%	1,484 6.67%	10,858 51.19%	10,184 48.81%	1,434 6.44%	12,776 81.34%	8,051 36.66%	1,429 6.42%
Ventura Percent	90,923 38.57%	144,822 61.43%	18,002 7.09%	108,015 45.13%	131,338 54.87%	14,384 5.87%	131,531 57.83%	95,914 42.17%	26,302 10.37%
Yolo Percent	21,288 38.48%	32,854 60.54%	5,512 9.27%	31,923 58.15%	22,049 40.85%	5,482 9.22%	24,827 47.11%	27,873 52.89%	6,754 11.36%
Yuba Percent	4,869 32.85%	9,953 67.15%	1,311 8.13%	7,311 48.03%	7,912 51.97%	910 5.84%	10,238 87.19%	4,999 32.81%	898 5.55%
<b>State Totals</b> Percent	<b>3,540,845</b> 38.76%	<b>5,593,589</b> 61.24%	<b>1,127,205</b> 10.88%	<b>4,575,550</b> 49.20%	<b>4,723,873</b> 50.80%	<b>962,218</b> 9.38%	<b>5,202,429</b> 58.55%	<b>3,998,702</b> 43.45%	<b>1,082,508</b> 10.35%



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EXHIBIT 5b

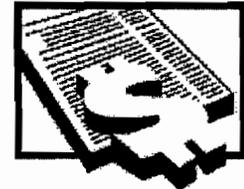
EXHIBIT 5b  
Intentionally omitted

EXHIBIT 6a

# Cal-Tax Digest

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February 1997



## Proposition 218: The Drafters' Statement of Intent

By Jonathan Coupal

Editor's Note: Following is the statement of intent from the drafters of Proposition 218, the "Right to Vote on Taxes Act," which was approved by voters last November. Three main elements of the initiative - general and special taxes; assessment reform, and property-related fees and charges - are addressed in this statement. It was issued in January by the Howard Jarvis Taxpayers Association, primary proponent of the initiative.



Mr. Coupal is director of legal affairs for the Howard Jarvis Taxpayers Association.

### VOTER APPROVAL FOR LOCAL TAX LEVIES.

*Comment: This section sets forth provisions similar to those found in Proposition 62, Government Code Section 53720, et seq. Although Proposition 62 was upheld by the California Supreme Court in Santa Clara County Local Transportation Authority v. Guardino (Howard Jarvis Taxpayers Association, et al., Real Parties in Interest) (1995) 11 Cal.4th 220, that initiative was a statutory initiative and charter cities, for the most part, have refused to follow its mandates. On the other hand, there is no dispute that Proposition 218 applies to charter cities.*

Article XIII C is added to the California Constitution to read:

#### SEC. 1. Definitions.

As used in this Article:

6a



(a) "General tax" means any tax imposed for general governmental purposes.

(b) "Local government" means any county, city, city and county, including a charter city or county, any special district, or any other local or regional governmental entity.

(c) "Special District" means an agency of the state, formed pursuant to general law or a special act, for the local performance of governmental or proprietary functions with limited geographic boundaries including, but not limited to, school districts and redevelopment agencies.

*Comment: The terms "local government" and "special district" are defined broadly so as to encompass all government entities other than the state itself. These definitions are more expansive than those set forth in Proposition 62.*

(d) "Special tax" means any tax imposed for specific purposes, including a tax imposed for specific purposes, which is placed into a general fund.

*Comment: The purpose of this definition is to require an analysis which looks to the purpose of the funding, not to the name on the account. See, e.g., Rider v. San Diego (1991) 1 Cal.4th 1. This provision is intended to prevent local governments from levying special taxes without a two-thirds vote simply by laundering the proceeds through a general fund. To this extent, the revised definition reverses Neecke v. City of Mill Valley (1995) 39 Cal.App.4th 946. It also would prohibit schemes which purport to authorize a "general" tax with a simple majority vote while, at the same time, propose a companion "advisory" vote on how the money should be spent. Such taxes retain their "special" characteristics under Proposition 218.*

**SEC. 2. Local Government Tax Limitation.**

Notwithstanding any other provision of this Constitution:

(a) All taxes imposed by any local government shall be deemed to be either general taxes or special taxes. Special purpose districts or agencies, including school districts, shall have no power to levy general taxes.

*Comment: This provision is similar to the language of the*

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*Supreme Court in the Rider v. San Diego decision recognizing that special districts, by their special nature, have no power to levy general taxes.*

(b) No local government may impose, extend, or increase any general tax unless and until that tax is submitted to the electorate and approved by a majority vote. A general tax shall not be deemed to have been increased if it is imposed at a rate not higher than the maximum rate so approved. The election required by this subdivision shall be consolidated with a regularly scheduled general election for members of the governing body of the local government, except in cases of emergency declared by a unanimous vote of the governing body.

*Comment: Under Proposition 218, a tax measure put to the voters could incorporate future increases and, if the ballot measure is approved, then the agency would not have to seek additional authorization from the voters for those increases. Also, except in cases of emergency, tax-measure elections are to be consolidated with regular elections at which members of governing bodies are chosen. A unanimous vote is needed to declare an emergency but, consistent with existing case law, this should be interpreted as a unanimous vote of those present at the meeting. The concern is that the nature of the emergency might keep some members of the local legislative body from attending a meeting.*

(c) Any general tax imposed, extended or increased, without voter approval, by any local government on or after January 1, 1995, and prior to the effective date of this article, shall continue to be imposed only if approved by a majority vote of the voters voting in an election on the issue of the imposition, which election shall be held within two years of the effective date of this article and in compliance with subdivision (b).

*Comment: This provision of Proposition 218 applies to any general fund tax levied after 1994. Those taxes imposed, extended or increased without voter approval on or after January 1, 1995 which have not received majority voter approval must be approved by a simple majority vote of the electorate by November 6, 1998. The reason the drafters designated an effective date of January 1, 1995 was to prevent a "rush" of new taxes imposed prior to November 1996 designed to avoid voter approval.*

*The designation of the January 1, 1995 date does not, in any way, affect any potential claim against a local government entity for*



*violations of Proposition 62. Taxes imposed prior to that date without voter approval may still be subject to challenge under that initiative as well as the recent Guardino decision.*

(d) No local government may impose, extend, or increase any special tax unless and until that tax is submitted to the electorate and approved by a two-thirds vote. A special tax shall not be deemed to have been increased if it is imposed at a rate not higher than the maximum rate so approved.

*Comment: This section states that any tax that is levied for a specific purpose must obtain a two-thirds vote of the electorate. These taxes include any tax imposed for a specific purpose or purposes including, but not limited to, local sales taxes or parcel taxes designated for specific purposes.*

**SEC. 3. Initiative Power For Local Taxes, Assessments, Fees and Charges.**

Notwithstanding any other provision of this Constitution, including, but not limited to Sections 8 and 9 of Article II, the initiative power shall not be prohibited or otherwise limited in matters of reducing or repealing any local tax, assessment, fee or charge. The power of initiative to affect local taxes, assessments, fees and charges shall be applicable to all local governments and neither the legislature nor any local government charter shall impose a signature requirement higher than that applicable to statewide statutory initiatives.

*Comment: This section merely "constitutionalizes" the principles of Rossi v. Brown, (1995) 9 Cal.4th 688, a recent decision of the California Supreme Court upholding the right of the electorate to use the local initiative power to reduce or eliminate government-imposed levies via the initiative power.*

*A concern has been expressed with respect to this provision's impact on existing and future bonds. The drafters believe these concerns are not well-founded. First, with respect to existing bonds, the impairment clause of the federal Constitution (U.S. Const., Art. I, Sec. 10(1)) would prevent a revenue stream protected thereunder from being jeopardized by an inappropriate use of the initiative power. Notwithstanding the clear application of federal law, however, Proposition 218's detractors contended, during the campaign, that there is no expressed exclusion for existing bonds under this provision. Because that part of the Right to Vote on Taxes Act dealing with*

**"A concern has been expressed with respect to this provision's impact on existing and future bonds. The drafters believe these concerns are not well-founded."**



*assessment reform set forth in proposed Article XIID does have such an exemption, the implication is that the lack of one in Section 3 was intentional. There are two responses to this argument. First, if anything, the protection for existing assessments that are used to repay bonded debt reflects a policy of protecting those instruments. Second, the reason that there was an expressed exception in the assessment provisions is that those provisions were dealing with retroactive application of the initiative. Because of that, a special effort was made to carefully detail those exemptions.*

*In any event, it is clear that the impairment clause would prevent extension of the initiative power to jeopardize a dedicated revenue stream used to pay existing bonded indebtedness. Indeed, the California State Treasurer called opponents of Proposition 218 "irresponsible" for their failed effort to make the credit worthiness of existing bonds an issue during the campaign.*

*Proposition 218 does not greatly expand the initiative power. This power historically was intended to apply to the repeal of taxes. See, Rossi v. Brown, supra at 699-705. It was not until the Meyers line of cases that this even became an issue. But the Supreme Court in Rossi expressly repudiated Meyers and its progeny (Rossi at 705-711) and the goal of the proponents has simply been to place this repudiation in the California Constitution.<sup>1</sup>*

*The next issue is whether Section 3 has an impact on future bonds. For a number of reasons, any detrimental impact is wholly speculative. First, as noted above, the initiative power could not be used to impair bonds that are already sold (even if they are sold after Proposition 218 becomes effective). The concern that the new provision will put potential bond holders "on notice" that the revenue stream could be eliminated is not well-founded. The concerns expressed, in short, do not take into account the fact that the people's power of initiative is a co-extensive power with that of the legislative body. See e.g., Carlson v. Cory (1983) 139 Cal.App.3d 724 and DeVita v. County of Napa (1995) 9 Cal.4th 763. If the legislative body could be enjoined from impairing contractual rights, then so could the people.*

*The above does not leave the taxpayers without a remedy, however. If the taxpayers wish to preclude or limit future rate or tax increases via an initiative, they could do so prior to any valid, legally binding commitment being made by the legislative body*



*with respect to a particular revenue stream. For example, the one scenario where our initiative could in fact have an impact is when the bonds are authorized, but not sold. Presumably, at that point, the legislative body could decide not to sell the bonds and no "impairment" would be at issue. If this is true, then there is no policy reason why the people, using the initiative power, could not be able to impact the sale of the bonds in a similar fashion. It should be noted, however, that since Rossi was decided more than a year ago, the drafters are aware of no instance where the initiative power was even threatened to be used to stop the sale of unsold bonds.*

#### **SECTION 4. ASSESSMENT AND PROPERTY RELATED FEE REFORM.**

*Comment: This is the third major element of Proposition 218 which provides significant reforms in the area of assessments, fees and charges.*

Article XIIIID is added to the California Constitution to read:

#### **ARTICLE XIIIID**

##### **SEC. 1. Application.**

Notwithstanding any other provision of law, the provisions of this article shall apply to all assessments, fees, and charges, whether imposed pursuant to state statute or local government charter authority. Nothing in this Article or Article XIIIIC shall be construed to:

- (a) Provide any new authority to any agency to impose a tax, assessment, fee or charge.
- (b) Affect existing laws relating to the imposition of fees or charges as a condition of property development.

*Comment: The purpose of this provision is to leave unaffected existing laws relating to the imposition of developer fees. Although there have been abuses in this area by local governments (resulting in substantially increased housing costs), the focus of Proposition 218 is on those levies imposed simply by virtue of property ownership. Developer fees, in contrast, are imposed as an incident of the voluntary act of development. Proposition 218 should not significantly impede the ability of*



*developers to employ "land secured financing" as a means to finance infrastructure. While assessments on developers are to be treated as any other assessment, it should be noted that Mello-Roos taxes (as special taxes consistent with the provisions of Proposition 13) will still be available to developers.*

*One significant impact of Proposition 218 on developers is that a tax imposed on development would be subject to voter approval just like any other tax. For example, in Centex Real Estate Corp. v. City of Vallejo (1993) 19 Cal.App.3d 1358, the court upheld the legality of a so-called "excise tax" on development levied by a charter city outside the restrictions that state law places on the imposition of developer fees. Because such levies are conceded to be taxes (levied solely for the purpose of raising revenue), they would fall under the purview of Proposition 218's voter approval requirement. (Such taxes also violate Proposition 62. However, Proposition 218 does not present the yet unresolved issue regarding whether the voter approval requirements of Proposition 62 are enforceable as against charter cities).*

**"These taxes are already addressed in the California Constitution and by legislation. The intent of Proposition 218 was to leave this entire area of law unaffected."**

(c) Affect existing laws relating to the imposition of timber yield taxes.

*Comment: These taxes are already addressed in the California Constitution and by legislation. The intent of Proposition 218 was to leave this entire area of law unaffected.*

**SEC. 2. Definitions.**

As used in this article:

(a) "Agency" means any local government as defined in subdivision (b) of Section 1 of Article XIIC.

(b) "Assessment" means any levy or charge upon real property by an agency for a special benefit conferred upon the real property. "Assessment" includes, but is not limited to, "special assessment," "benefit assessment," "maintenance assessment" and "special assessment tax."

(c) "Capital cost" means the cost of acquisition, installation, construction, reconstruction or replacement of a permanent public improvement by an agency.

(d) "District" means an area determined by an agency to contain

**"...services should be broadly construed to include levies**



all parcels which will receive a special benefit from a proposed public improvement or property-related service.

(e) "Fee" or "charge" means any levy other than an ad valorem tax, a special tax or an assessment, imposed by an agency upon a parcel or upon a person as an incident of property ownership, including user fees or charges for a property related service.

*Comment: Included in covered fees and charges are levies for property related services. Such services should be broadly construed to include levies imposed for services or regulatory activities which have a nexus to the beneficial use of property including rent control fees. "Fees," for purposes of this article, are limited to levies imposed as an incident of property ownership or fees for property related services. DMV fees, statewide fees, fines, and recreation fees such as park gate fees, are not affected. However, fees for sewer, water and refuse collection, because of their connection to property, are included.*

(f) "Maintenance and operation expenses" means the cost of rent, repair, replacement, rehabilitation, fuel, power, electrical current, care, and supervision necessary to properly operate and maintain a permanent public improvement.

(g) "Property ownership" shall be deemed to include tenancies of real property where tenants are directly liable to pay the assessment, fee, or charge in question.

*Comment: Under this definition, if a tenant of real property is directly liable to pay an assessment, that tenant would have the right to protest and vote. This will depend on the terms of the lease. "Direct pass-throughs" are more common in commercial leases than in residential leases. Moreover, it would not be inappropriate for the Legislature to provide the specific guidelines with respect to the duties of the agency and property owners for the implementation of this provision.*

(h) "Property-related service" means a public service having a direct relationship to property ownership.

(i) "Special benefit" means a particular and distinct benefit over and above general benefits conferred on real property located in the district or to the public at large. General enhancement of property value does not constitute "special benefit."

**imposed for services or regulatory activities which have a nexus to the beneficial use of property including rent control fees."**



*Comment: What constitutes a special benefit will depend on the nature of the capital improvement or service being provided. It must be more than a mere increase in the value of the property because, arguably, the availability of any public service could provide additional value. It must be a direct and special benefit conferred on the property that exceeds the benefit conferred on the public or large or even to other similar properties.*

**SEC. 3. Property Taxes, Assessments, Fees and Charges Limited.**

*Comment: This section provides an exclusive list of those levies that can be imposed on real property.*

(a) No tax, assessment, fee or charge shall be assessed by any agency upon any parcel of property or upon any person as an incident of property ownership except:

(1) The ad valorem property tax imposed pursuant to Article XIII and Article XIII A of this Constitution.

(2) Any special tax receiving a two-thirds vote pursuant to Article XIII A, Section 4.

*Comment: Proposition 218 permits special taxes with a two-thirds vote consistent with Proposition 13. Although there remain significant policy issues with respect to any non-ad valorem property tax, the authors of Proposition 218 realized it would be difficult to repeal existing statutory authorization for special taxes on property as long as those taxes secured the requisite two-thirds vote. General taxes on property are not permitted on property under existing California Constitutional principles. (Article XIII, Section 1).*

(3) Assessments as provided by this article.

(4) Fees or charges for property related services as provided by this article.

(b) For purposes of this article, fees for the provision of electrical or gas service shall not be deemed charges or fees imposed as an incident of property ownership.

**SEC. 4. Procedures and Requirements for All Assessments.**



(a) An agency which proposes to levy an assessment shall identify all parcels which will have a special benefit conferred upon them and upon which an assessment will be imposed. The proportionate special benefit derived by each identified parcel shall be determined in relationship to the entirety of the capital cost of a public improvement, the maintenance and operation expenses of a public improvement, the cost of the property related service being provided. No assessment shall be imposed on any parcel which exceeds the reasonable cost of the proportional special benefit conferred on that parcel. Only special benefits are assessable, and an agency shall separate the general benefits from the special benefits conferred on a parcel. Parcels within a district that are owned or used by any agency, the State of California or the United States shall not be exempt from assessment unless the agency can demonstrate by clear and convincing evidence that such publicly owned parcels in fact receive no special benefit.

*Comment: These requirements for assessments are similar to those imposed by traditional assessment law. The overall purpose of this section is to permit assessments to be used, once again, as a legitimate financing mechanism for capital improvements and services that provides particular benefits to property and not just a means to impose flat rate parcel taxes. These requirements are: assessments must be proportional to the benefit; only special benefits are assessable; and public properties must pay their fair share. Historically, benefit assessments have also been levied on public properties. (See, e.g., Municipal Improvement Act of 1911). Only in recent years when assessments have been used to impose what are, in effect, parcel taxes, have public properties received blanket exemptions from assessments. Under Proposition 218, if public property is benefited in the same manner as private property, then it must be assessed.*

(b) All assessments must be supported by a detailed engineer's report prepared by a registered professional engineer certified by the State of California.

*Comment: This requirement is consistent with traditional assessment law. Only since Proposition 13 have non-engineers been able to prepare engineers' reports."*

(c) The amount of the proposed assessment for each identified parcel shall be calculated and the record owner of each parcel shall be given written notice by mail of the proposed assessment,



the total amount thereof chargeable to the entire district, the amount chargeable to the owner's particular parcel, the duration of such payments, the reason for the assessment and the basis upon which the amount of the proposed assessment was calculated, together with the date, time, and location of a public hearing on the proposed assessment. Each notice shall also include, in a conspicuous place thereon, a summary of the procedures applicable to the completion, return and tabulation of the ballots required pursuant to subdivision (d), including a disclosure statement that the existence of a majority protest, as defined in subdivision (e), will result in the assessment not being imposed.

**"Notice requirements for assessments have been substantially liberalized in recent years to the detriment of taxpayers."**

(d) Each notice mailed to owners of identified parcels within the district pursuant to subdivision (c) shall contain a ballot which includes the agency's address for receipt of any such ballot once completed by any owner receiving the notice whereby the owner may indicate his or her name, reasonable identification of the parcel, and his or her support or opposition to the proposed assessment.

*Comment: Notice requirements for assessments have been substantially liberalized in recent years to the detriment of taxpayers. Proposition 218 requires mailed notice, not just publication in a newspaper. Mailed notice would also include a ballot to be returned by the property owners as more fully described below.*

***Notice of Proposed Assessment: The procedures for processing and tabulating protests against a proposed assessment under Proposition 218 are largely set forth in the initiative. Under Proposition 218, each property owner subject to a proposed assessment must receive a written notice of the proposed assessment and a ballot to be returned to the agency indicating support or opposition to the proposed assessment.***

*The notice, ballot, and return envelope must be mailed to property owners at least 45 days before the required public hearing on the assessment. During the 45 days between the time the notice is mailed and the hearing is held, the engineer's report and all other pertinent materials or public records must be made available to property owners for their review, along with the address where they may review the documents. The notice must also set forth:*

1) *The amount proposed to be charged as an assessment against*



*the specific parcel.*

*2) The amount proposed to be charged as an assessment to the entire district.*

*3) The length of time the proposed assessment will be in place.*

*4) The reasons for the assessment and the grounds upon which the proposed assessment for the parcel was calculated.*

*5) The date, location and time of the required public hearing.*

*6) A summary of the protest procedure, including instructions for the completion and return of the ballot.*

*Drafters' Suggested Procedures:*

**Ballot:** The ballot should remain sealed with all pertinent property owner information on the outside of the envelope so that both the signature and the information can be verified by the tabulator before the envelope is opened. The envelope should include parcel number, signature, address, sworn declaration, etc. The ballot should include the agency's address (or a self-addressed envelope, stamp at agencies discretion) for return of the ballot.

**Tabulation Procedures:** Ballots should be opened and tabulated at the end of the public hearing. Ballots can be mailed to the agency or delivered personally to the agency prior to actual ballot tabulations. Ballots are tabulated by adding the amount of the assessment on each ballot indicating either approval of, or opposition to, the assessment. If the dollar amount representing the consenting ballots exceeds the dollar amount reflective of the opposing ballots, the assessment may be imposed. In the event of a tie, the assessment cannot be imposed.

Ballots should be retained by the agency for a sufficient period of time to permit resolution of disputes involving the ballot process. Also, nothing in Proposition 218 prohibits the use of independent private firms or public agencies to contract with the levying agency to administer the ballot process. Thus, a local agency could contract either with an accounting firm or a county registrar of voters for this purpose.

*Preprinted ballots in the following format are recommended:*



*Parcel No. [preprinted from assessors tax roll]*

*Record Owner: [preprinted from assessors tax roll]*

*Address: [preprinted from assessors tax roll]*

       *Yes, I approve of the proposed annual assessment of \$ [preprinted] on the parcel identified on this ballot.*

       *No, I do not approve the proposed assessment on this parcel.*

*Signature of Record Owner or Authorized Representative in the case of property owned by non- individuals.*

**"...limiting the ability to protest assessments to those who own property is consistent with over one hundred years of assessment law."**

*As previously noted, the Legislature may wish to provide additional details with respect to those tenants of real property who, by virtue of their lease, are directly obligated to pay an assessment. The Drafters do not recommend legislation which places the burden of determining who has the right to protest an assessment on the public agency. One possible solution is a statute providing that the property owners have an affirmative duty to inform tenants, and transmit the ballots, in those situations where the tenants are financially responsible for the payment.*

***Legal Issue Regarding Right to Vote***

*During the campaign, opponents of Proposition 218 claimed that the initiative would deprive electors of the right to vote by giving corporations (including foreign corporations) more voting power than individual voters or property owners. However, limiting the ability to protest assessments to those who own property is consistent with over one hundred years of assessment law. Similarly, Proposition 218's specific provision of "weighting" the protest votes according to the amount of the assessment is also consistent with the "weighting" formula of some existing statutes. See, e.g. Fire Suppression Assessments, Gov't Code 50078, et seq. This formula was selected because it the most reflective of the policy that those who have to pay should have the right to affect the decision of whether the levy should be imposed. Moreover, some of the other existing "weighting" formulas, such as those based on acreage, led to some strange and inequitable results. The County of Los Angeles' park assessments are prime examples.*

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(e) The agency shall conduct a public hearing upon the proposed assessment not less than 45 days after mailing the notice of the proposed assessment to record owners of each identified parcel. At the public hearing, the agency shall consider all protests against the proposed assessment and tabulate the ballots. The agency shall not impose an assessment if there is a majority protest. A majority protest exists if, upon the conclusion of the hearing, ballots submitted in opposition to the assessment exceed the ballots submitted in favor of the assessment. In tabulating the ballots, the ballots shall be weighted according to the proportional financial obligation of the affected property.

(f) In any legal action contesting the validity of any assessment, the burden shall be on the agency to demonstrate that the property or properties in question receive a special benefit over and above the benefits conferred on the public at large and that the amount of any contested assessment is proportional to, and no greater than, the benefits conferred on the property or properties in question.

*Comment: Although this provision shifts the burden of proof in taxpayers' favor on the issue of benefits to property, it is consistent with some current case law. See, e.g., Beaumont Investors v. Beaumont-Cherry Water Dist. (1985) 165 Cal.App.3d 567.*

(g) Because only special benefits are assessable, electors residing within the district who do not own property within the district shall not be deemed under this Constitution to have been deprived of the right to vote for any assessment. If a court determines that the Constitution of the United States or other federal law requires otherwise, the assessment shall not be imposed unless approved by a two-thirds vote of the electorate in the district in addition to being approved by the property owners as required by Section 4(e).

*Comment: Under existing law, it is not a violation of the right to vote to limit elections to property owners if the district provides only a narrow, property related service. So. Cal. Rapid Transit District v. Bolen (1992) 1 Cal.4th 654.*

## SEC. 5. Effective Date

*Comment: Although titled "effective date," this section has some important exceptions regarding the requirements for assessments. If one of the following exceptions does not apply,*



*then an existing assessment must cease by July 1, 1997 unless ratified by the property owners.*

Pursuant to subdivision (a) of Section 10 of Article II, the provisions of this article shall become effective the day after the election unless otherwise provided. Beginning July 1, 1997, all existing, new or increased assessments shall comply with this article. Notwithstanding the foregoing, the following assessments existing on the effective date of this article shall be exempt from the procedures and approval process set forth in Section 4:

*Comment: An assessment is deemed "existing on the effective date of this Article," even if it is the type of assessment which comes up for annual renewal. As long as the assessment rates and methodology remained the same from year to year, the fact that the assessment is "imposed" annually would not necessarily trigger applicability of the requirements of this Article. This would be true even if the total revenue to the district increased due to changes in land use for specific parcels (e.g., newly-created or improved parcels). Again, as long as the assessment rates and methodology remain the same, an increase in revenue as the result of land use changes would not trigger applicability of Section 4. However, the procedures and approval process of Section 4 would apply to the entire assessment in the event the assessments were increased either by the rate of assessment or by a change in methodology.*

(a) Any assessment imposed exclusively to finance the capital costs or maintenance and operation expenses for sidewalks, streets, sewers, water, flood control, drainage systems or vector control. Subsequent increases in such assessments shall be subject to the procedures and approval process set forth in Section 4.

*Comment: This is the "traditional purposes" exception. These existing assessments do not need property owner approval to continue. However, future assessments for these traditional purposes are covered. The reference to "streets" does not include street lighting.*

(b) Any assessment imposed pursuant to a petition signed by the persons owning all of the parcels subject to the assessment at the time the assessment is initially imposed. Subsequent increases in such assessments shall be subject to the procedures and approval process set forth in Section 4.



*Comment: This provision exempts most land secured financing arrangements used by developers.*

(c) Any assessment the proceeds of which are exclusively used to repay bonded indebtedness of which the failure to pay would violate the Contract Impairment Clause of the Constitution of the United States.

**"The purpose of this section is to prevent the exploitation of 'fees' as a means to avoid the new restrictions on assessments."**

*Comment: Even an amendment to the California Constitution cannot impair a contract protected by the federal constitution. However, this exception can only be used for bonds that are actually protected by the impairment clause. Certificates of Participation and other creative debt instruments would not be protected. Moreover, in order to qualify for this exception, the assessment levied would have to be specifically tied to the repayment of bonds.*

(d) Any assessment which previously received majority voter approval from the voters voting in an election on the issue of the assessment. Subsequent increases in such assessments shall be subject to the procedures and approval process set forth in Section 4.

*Comment: Although the exception for assessments previously approved by the voters will permit the continued collection of some particularly illegitimate assessments, requiring an additional approval process would be redundant. It should also be noted, however, that the vote necessary to qualify for this exception must be binding. Advisory votes are insufficient.*

**SEC. 6. Property Related Fees and Charges.**

*Comment: The purpose of this section is to prevent the exploitation of "fees" as a means to avoid the new restrictions on assessments. Because flat rate parcel taxes have avoided the strictures of Proposition 13 simply by being called "assessments," the drafters are concerned that the same will happen with "fees" - that is, circumventing taxpayer protections by manipulating the label of the levy.*

**(a) Procedures for New or Increased Fees and Charges.** An agency shall follow the procedures pursuant to this section in imposing or increasing any fee or charge as defined pursuant to this Article including, but not limited to, the following:



(1) The parcels upon which a fee or charge is proposed for imposition shall be identified. The amount of the fee or charge proposed to be imposed upon each parcel shall be calculated. The agency shall provide written notice by mail of the proposed fee or charge to the record owners of each identified parcel upon which the fee or charge is proposed for imposition, the amount of the fee or charge proposed to be imposed upon each, the basis upon which the amount of the proposed fee or charge was calculated, the reason for the fee or charge, together with the date, time, and location of a public hearing on the proposed fee or charge.

*Comment: This section is applicable to any fee imposed on a parcel basis or for fees which provide a property related service. It does not affect fees that are not property related such as DMV fees, park fees, or administrative charges imposed by a local government.*

(2) The agency shall conduct a public hearing upon the proposed fee or charge not less than 45 days after mailing the notice of the proposed fee or charge to the record owners of each identified parcel upon which the fee or charge is proposed for imposition. At the public hearing, the agency shall consider all protests against the proposed fee or charge. If written protests against the proposed fee or charge are presented by a majority of owners of the identified parcels, the agency shall not impose the fee or charge.

*Comment: Votes on property fees and charges are not weighted in the same manner as assessments. Because fees can vary according to usage of the service, there is no workable methodology to apportion the votes of the service users. Thus, the issue of a fee increase will be determined by a simple majority vote of property owners or fee payers.*

**(b) Requirements for Existing, New or Increased Fees and Charges.** A fee or charge shall not be extended, imposed or increased by any agency unless it meets all of the following requirements:

*Comment: These five requirements are applicable to all fees, including those that currently exist. In essence, these requirements mandate that fees not exceed the "cost of service."*

(1) Revenues derived from the fee or charge shall not exceed the funds required to provide the property related service.

**"Standby charges**

(2) Revenues derived from the fee or charge shall not be used for any purpose other than that for which the fee or charge was imposed.

*Comment: Requirements 1 & 2 will prohibit the current practice of siphoning off fee revenue to supplement a city's general fund. This practice, sometimes known as charging an "in lieu franchise fee," currently occurs both in Los Angeles and Sacramento, as well as in many other municipalities. However, "cost of service" may also include reasonable overhead expenses as well as other items on a service bill which are necessary to provide service to the particular service user. What is included in "cost of service" will have to be determined on a case by case basis.*

**are usually nothing more than flat rate parcel taxes ... This provision is a flat prohibition of such levies."**

(3) The amount of a fee or charge imposed upon any parcel or person as an incident of property ownership shall not exceed the proportional cost of the service attributable to the parcel.

*Comment: As with assessments, fees and charges must be proportional to the actual use of the service.*

(4) No fee or charge may be imposed for a service unless that service is actually used by, or immediately available to, the owner of the property in question. Fees or charges based on potential or future use of a service are not permitted. Standby charges, whether characterized as charges or assessments, shall be classified as assessments and shall not be imposed without compliance with Section 4.

*Comment: Standby charges are usually nothing more than flat rate parcel taxes imposed on the theory that water or sewer service may, at some point in the indefinite future, be available to the property being charged. This provision is a flat prohibition of such levies. However, if a current standby charge is in the nature of an assessment and can meet the more stringent "special benefit" requirements, it may take advantage of the exemption for assessments. If not, the levy would have to be reimposed as an assessment and meet all requirements of Section 5 or cease to be collected.*

(5) No fee or charge may be imposed for general governmental services including, but not limited to, police, fire, ambulance or library services where the service is available to the public at large in substantially the same manner as it is to property owners.

*Comment: This provision prohibits the imposition of parcel*



*"charges" for general governmental services. The purpose of this provision is to stop those levies, such as the County of Los Angeles' parcel "charge" for library services irrespective of use of library services.*

Reliance by an agency on any parcel map including, but not limited to, an assessor's parcel map, may be considered a significant factor in determining whether a fee or charge is imposed as incident of property ownership for purposes of this Article. In any legal action contesting the validity of a fee or charge, the burden shall be on the agency to demonstrate compliance with this Article.

**(c) Voter Approval for New or Increased Fees and Charges.**

Except for fees or charges for sewer, water, and refuse collection services, no property related fee or charge shall be imposed or increased unless and until such fee or charge is submitted and approved by a majority vote of the property owners of the property subject to the fee or charge or, at the option of the agency, by a two-thirds vote of the electorate residing in the affected area. The election shall be conducted not less than 45 days after the public hearing. An agency may adopt procedures similar to those for increases in assessments in the conduct of elections under this subdivision.

*Comment: This exemption for sewer, water and refuse collection is for voter approval only. Such fees must still meet all of the five substantive requirements of paragraph (b). The policy reason for this exemption is consistent with preventing end-runs around Proposition 13. Since water, sewer and refuse collection fees pre-date Proposition 13, they were exempted from voter approval.*

(d) Beginning July 1, 1997, all fees or charges shall comply with this Section.

**SECTION 5. LIBERAL CONSTRUCTION.** The provisions of this Act shall be liberally construed to effectuate its purposes of limiting local government revenue and enhancing taxpayer consent.

*Comment: The purpose of this section is to ensure that, in the event of any ambiguity, the rights of taxpayers will be the paramount consideration.*



EXHIBIT 6b

# Cal-Tax Digest

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February 1997



## The Genesis of Proposition 218: A History of Local Taxing Authority

*By David R. Doerr*

The roots of Proposition 218, approved by voters last fall, go back to the passage of Proposition 13 in 1978, and beyond. Contrary to popular belief, counties and most cities have more non-property tax discretionary taxing authority under Proposition 218 than they had before passage of Proposition 13. The assessment and property-related fee limits in Proposition 218 stem from local government excesses in the 1980s and 1990s, and the limits on assessments are procedural (mechanics of voting and how votes are to be tallied) and substantive.

Tax limitations on local government were not invented by Proposition 13.

Other than an ad valorem property tax and hotel/motel occupancy taxes, counties and general law (most) cities had virtually no local discretionary taxing authority before 1978. And, as a result of then-Governor Ronald Reagan's property tax reform legislation of 1972 (SB 90, Dills), tight



Mr. Doerr is chief tax consultant at Cal-Tax. From 1963 to 1987, he was chief consultant to the California Assembly Committee on Revenue and Taxation.

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property tax rate limits on cities and counties were in effect.

In addition, the Bradley-Burns Uniform Local Sales Tax Act allowed cities and counties access to a 1 percent local sales tax. However, as the rate was limited to 1 percent and tied to state administration, there was virtually no discretion over this revenue source. The rate was a fixed 1 percent for the two decades preceding Proposition 13 (except in a few unusual instances where the rate dropped to zero in small counties.)

Unlike general law cities, charter cities (there are now 94) had slightly broader taxing authority prior to Proposition 13 than they do now. They could levy a few special taxes (business license tax, utility user tax, hotel/motel occupancy tax, realty transfer tax, etc.) by action solely of the governing board.

However, charter cities had limited discretion or were prohibited from levying any significant tax: Income taxes were prohibited; the sales tax was fixed under the Bradley-Burns scheme, and ad valorem property tax rate limits were in effect. Charter cities could not levy alcoholic beverage, cigarette, motor vehicle fuel or insurance taxes. Nor could they levy parcel property taxes.

No one would seriously argue that it was the intent of Howard Jarvis and Paul Gann in drafting Proposition 13 to expand the discretionary, non-ad valorem taxing power of cities and counties. Yet, that is exactly what happened.

What happened after passage of Proposition 13 led directly to the passage of Proposition 218. This is that part of the story.

The cause of all the trouble is the California Constitution's Section 4 of Article XIII A (Proposition 13), which states: "Cities, counties and special districts, by a two-thirds vote of the qualified electors of such district, may impose special taxes on such district, except ad valorem taxes on real property or a transaction tax or sales tax on the sale of real property within such city, county or special district."

"Special taxes" were undefined in Proposition 13. It is possible that Mr. Jarvis and Mr. Gann (both now deceased) believed the distinction between a special and general tax was the scope of tax. A general tax was thought of as a tax applied to all. A special tax was viewed as a more limited tax on a specific product or class of taxpayers.

In the context of Proposition 13, this is the definition that makes sense. Discretion to raise "general" income and sales taxes was already limited by law and Proposition 13 put the cap on the "general" ad valorem tax. Proponents probably wanted to cap the "special" utility user and business license taxes that charter cities could levy, so that opponents of the measure could not charge in the campaign that local governments would raise other taxes to offset lower property taxes.

In the June 1978 election ballot pamphlet, proponents stated that Proposition 13 required *all* other taxes to be approved by a two-thirds vote of the people.

However, legislative counsel suggested another possible interpretation of Section 4, saying it might be interpreted to mean a special tax would be determined by its purpose, rather than its nature: If the proceeds of the tax were earmarked, it would be a special tax; if not, it would be



considered a general tax. Proponents strongly disagreed with this view.

In the immediate aftermath of Proposition 13's passage, virtually all local taxing units accepted the two-thirds vote requirement. Because the Legislature and taxpayer advocates both believed two-thirds voter approval would be needed to pass taxes that charter cities had the authority to levy, legislation was passed in 1979 (SB 785, Foran) allowing general law cities to impose special taxes. In a trailer bill to the 1982 Budget Act, this authority was expanded to authorize "the governing body of any city to levy any tax which may be levied by a charter city ... (which would include general taxes)."

During the early years, cities and counties had entered into negotiations with taxpayer groups, in an effort called "Project Independence," seeking to reduce voter approval requirements for certain taxes to a majority vote.

Also during this period, the first parcel property taxes appeared. Although prohibited by the Constitution (Article XIII, Section 1) prior to the passage of Proposition 13, they became legal under an interpretation that Section 4 authorized their levy as "special taxes." The legislative counsel pointed out that the ad valorem tax had been defined by the courts to be a "general" tax and that the "special" tax authorizations in Proposition 13 allowed parcel property taxes.

By 1982, the situation changed. The Rose Bird-led Supreme Court, with Associate Justice Frank Richardson dissenting, defined a special tax not by the type of tax it is but by how the money is spent, adopting the legislative counsel's interpretation. If spent for a "special



purpose," it is a special tax (*City and County of San Francisco v. Farrell*).

The *Farrell* decision was bad news for taxpayers. Now, general law cities, which could not even levy utility user taxes, business license taxes, etc., prior to passage of Proposition 13, could impose taxes without any voter approval requirement. Ironically, the decision was also bad news for proponents of local transportation improvements. A general tax (the sales tax) earmarked for transportation was be interpreted to require a two-thirds vote (*Santa Clara County Transportation Authority v. Guardino, 1995*). Under the alternative definition of general and special taxes, a sales tax (which would have been considered a general tax) increase for transit would have required only a majority vote - pursuant to then-existing statutes.

A Cal-Tax survey two years after the *Farrell* decision found that of 150 cities with more than 80 percent of the state's population, 138 increased taxes without voter approval (which yielded some \$300 million over two years).

In response to the *Farrell* decision, the Jarvis organization launched a new initiative in 1984. Proposition 36 required any local tax increase be approved by a two-thirds popular vote. Voters rejected the proposal. Major factors in the defeat were provisions voiding previously voter-approved, but unsold general obligation bonds, and requiring two-thirds voter approval for any fee increase (not just property-related fees) above the increase in cost of living.

Another initiative, substantially scaled back from the 1984 version, was placed on the June 1986 ballot and approved by voters. Proposition 62 provided that, for all

**"A Cal-Tax survey two years after the Farrell decision found that of 150 cities with more than 80 percent of the state's population, 138 increased taxes without voter approval."**

government jurisdictions, including charter cities, increases of "general" taxes must have majority voter approval and increases in "special" taxes would continue to require two-thirds voter approval.

As Proposition 62 was a statutory initiative, a number of local governments challenged the constitutionality of the plan, saying it could not apply to charter cities and required an illegal referendum on taxes.

During court debate on Proposition 62, the Legislature extended local taxing authority to counties (SB 2557, Maddy of 1990) to impose utility user taxes and business license taxes. The bill conditioned such levies on "any applicable voter approval requirement." Since Proposition 62 was in effect at the time, it was assumed that its voter-approval requirements would cover county tax levies.

In 1991, however, an appellate court held Proposition 62's voter-approval requirements to be an unconstitutional referendum (*Woodlake v. Logan*). Again, taxpayers found that not only general law cities, but now counties, too, could impose by board action - without voter approval - new taxes that they were precluded from levying before 1978.

After passage of Proposition 13, local governments also expanded the use of "assessments" on property to generate revenue. These assessments went far beyond the traditional scope, where projects to be funded directly benefited property (such as roads, sidewalks, sewers, etc.). Activities formerly funded by general tax revenues were now paid for from benefit assessments.

A 6-1 California Supreme Court decision on December 10, 1992 (*Knox v. Orland*),



upheld the validity of a special assessment district to maintain facilities at five city parks. It included property outside the city, 20 miles from such parks. This precedent encouraged even faster growth in assessment financing.

Data from State Controller Office publications show that from the passage of Proposition 13 through 1992-93, city benefit assessments climbed 976 percent, to an annual levy of \$304 million.

Property-related fees also became more of a problem, as some local governments, with creative word smithing, decided to label taxes as fees and impose them without voter approval. With non-voted local taxes proliferating, significant increases in assessments and expansion of property-related fees, the Jarvis organization prepared plans for a constitutional amendment to resolve any constitutional questions in Proposition 62, and to control special assessments and property-related fees.

**"Property-related fees also became more of a problem, as some local governments, with creative word smithing, decided to label taxes as fees and impose them without voter approval."**

Meanwhile, the California Supreme Court, in its 1995 *Guardino* decision, found Proposition 62 to be constitutional, and not an illegal referendum. However, most large cities and counties ignored the decision and continued to levy taxes imposed without voter approval. Charter cities argued that they were not subject to the *Guardino* decision.

Faced with continued uncertainty over the scope of Proposition 62 and faced with mounting assessments and fees, the Jarvis organization pressed ahead with a new initiative, Proposition 218, to resolve a number of these issues and to establish once and for all voters' right to vote on local tax increases. The initiative also made procedural changes in the way assessments



are approved. In general, assessments have always been subject to a majority protest procedure. Proposition 218 establishes a formal voting procedure for such protests, which had been lacking. Votes in favor of an assessment must exceed votes in protest against the assessment.

Last November 5, Proposition 218 was approved by a comfortable margin, with more than 56 percent of the vote in support.

### THE AFTERMATH

*Editor's Note: Media accounts after the November election described Proposition 218 as a little-noticed sleeper with a haymaker punch. Local government officials were depicted as scrambling to pick up the pieces. Actually, local policy makers knew full well what this initiative was all about. It just lacked the publicity surrounding other measures on the same ballot, such as the initiative that legalized medicinal use of marijuana. However, as with many ballot measures, 218 may turn out to be a full employment act for lawyers specializing in local government finance.*

Among developments since November: a report on the impact by the Legislative Analyst's Office (LAO); a how-to-cope guide from the League of California Cities, and, yes, litigation, and the threat of litigation. There also will be bills introduced in the Legislature in the two-year session that is just under way.

The LAO's December report, "Understanding Proposition 218," concluded that most revenues of local government are not directly affected by Proposition 218, and the maximum long-term impact is not likely to exceed a 5 percent reduction.

In the report, analyst Marianne O'Malley said Proposition 218's provisions affect a "relatively small subset" of local government revenues, such as new and some recently imposed "general" taxes; all new or increased assessments and some existing assessments, and certain property-related fees. Local government revenues exceed \$50 billion annually.

**"It is highly unlikely that the measure could cause more than a 5 percent annual decrease in aggregate local government own-source revenues."**

Thus, Ms. O'Malley wrote, "It is highly unlikely that the measure could cause more than a 5 percent annual decrease in *aggregate* local government own-source revenues." The impact could be more significant, however, on some governments "highly reliant upon the types of assessments and fees that would be restricted by this measure."

The analyst also said that, beginning this year, local governments will reduce or eliminate certain existing general government-purpose assessments and fees, as required by the initiative. This will reduce local government revenues by at least \$100 million in the 1997-98 fiscal year. Additional revenue losses, "potentially exceeding \$100 million annually," could occur unless voters ratify existing assessments and taxes, the report said.

The report states that some important provisions are not completely clear and summarizes major questions that must be resolved, possibly through legislation or litigation. These questions include:

**Property-related fees.** What is included in the definition of property-related fees? Do they include water charges based on metered use? Do they include regulatory fees, such as rent control administrative fees? Do they include lease payments and other such charges on government-owned



assets?

**Assessments.** What is a "special benefit" and how can it be distinguished from a "general benefit?" How broadly should local governments interpret exemptions for sidewalks, streets, sewers, water, flood control, drainage systems and vector control, and election requirements? Can local government set general assessment rate categories, or must it determine the actual cost of service to every parcel?

**Elections.** What procedures should govern assessment and fee elections? Who may vote on referenda to repeal assessments, fees or taxes? How will a renter's eligibility to vote be determined? Who gets to vote when a parcel is owned by multiple parties, or by a government entity?

**Taxes.** Are Mello-Roos taxes affected? How should assessments imposed under Mello-Roos law be treated? Is the requirement that certain existing taxes be rati-fied by the voters an unconstitutional referendum on taxes?

**Debt.** Could local initiatives jeopardize a revenue stream pledged to the payment of existing or future debt?

(The complete report is available on the LAO's World Wide Web site (<http://www.lao.ca.gov>). To request an LAO publication, call 916-445-2375.)

From the League of California Cities: an 86-page "Implementation Guide" was issued in January. The league prefaced its guide with opinion that the initiative makes changes in government finances that are so sweeping as to constitute a constitutional revision. This, of course, would require approval by the Legislature or a constitutional convention before submission



to voters.

"In sum, questions concerning 218 will take years to resolve," said the guide.

**On the legal front:** The Los Angeles City Council voted 8-3 on November 15 to sue against the initiative's provision that limits eligibility to vote on assessments to those property owners who would pay. More than two months later, no suit had been filed by the city.

Los Angeles County on December 17 filed the first court action that would impact Proposition 218. The Superior Court complaint seeks to validate the levy and collection of a fire suppression benefit assessment within the Consolidated Fire Protection District of the county beyond July 1, 1997.

Cities of San Diego and Loomis (Placer County) have adopted, or were considering, non-property based assessments on businesses, based on their beliefs that such business improvement districts are outside the scope of Proposition 218's voter-approval requirements.

A number of local governments were planning to take non-voter-approved taxes to the polls this year for validation elections, as required by the initiative.

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EXHIBIT 7a

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## LWVC Recommendations

### California November 1996 Ballot Measures

League advocacy begins with members selecting, studying and seeking consensus on issues which are of public concern. When consensus is achieved, the League has a "position." The League uses its positions to advocate for policies, legislation and ballot measures which it believes would best serve the public interest and against proposals which are in conflict with those goals.

For the November 1996 California General Election, the League of Women Voters of California (LWVC) is making the following recommendations. The reasons supporting our position can be seen by clicking on the proposition number.

- Proposition 204: Safe, Clean, Reliable Water Supply Act -- YES
- Proposition 208. Campaign Contributions and Spending Limits. -- YES
- Proposition 209. Prohibition Against Discrimination or Preferential Treatment by State and Other Public Entities. -- NO
- Proposition 210. Minimum Wage Increase. --YES
- Proposition 212. Spending Limits and Campaign Contributions. -- NO
- Proposition 217. Top Income Tax Brackets. -- YES
- Proposition 218. Voter Approval for Local Taxes. -- NO

**For the propositions on the ballot not listed above, the LWVC is making no recommendations:**

- The LWVC has not studied funding for jails or juvenile corrections facilities and therefore makes no recommendation on Proposition 205.
- The LWVC has not studied issues related to housing for veterans and therefore has no recommendation on Proposition 206.

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- The LWVC has not studied attorney-client fees or frivolous law suits and therefore makes no recommendation on Proposition 207.
- The LWVC has not studied attorney-client fees or securities fraud and law suits and therefore makes no recommendation on Proposition 211.
- The LWVC has not studied auto insurance issues and therefore makes no recommendation on Proposition 213.
- The League has a position on health care but the LWVC Board of Directors decided to remain neutral on Proposition 214.
- The LWVC has not studied the medical use of marijuana and therefore makes no recommendation on Proposition 215.
- The League has a position on health care but the LWVC Board of Directors decided to remain neutral on Proposition 216.

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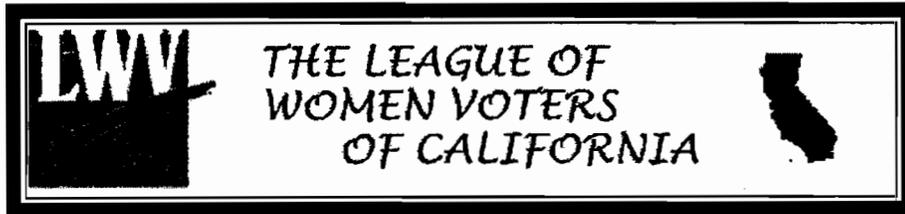
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## Proposition 218 -- No

**Voter Approval for Local Taxes. Limitations on Fees, Assessments, and Charges.** Constitutional amendment that limits local governments' authority to impose property-related assessments, fees and charges. Allows that only property owners vote on such items and that their votes be weighted by the amount they would pay. Requires a majority of voters approve increases in general taxes and reiterates that two-thirds must approve special tax. Requires public properties to pay assessments.

LWVC Nonpartisan Analysis of Proposition 218

### WHY THE LEAGUE OF WOMEN VOTERS OF CALIFORNIA RECOMMENDS NO ON PROPOSITION 218

In order to provide adequate revenue for local services, the League of Women Voters of California State and Local Government Finance positions support a variety of revenue sources being available to local governments, including local taxes, fees and benefit assessments.

Fees for essential community wide services should include provision for those unable to pay. Assessments should confer a benefit primarily to those paying. There should be notification to the owners of property to be assessed and a simple, clear, speedy, widely publicized protest and appeals process.

The LWVC in its 1993-94 study of State and Local Finance also reached consensus that in the interest of flexibility there should be "minimal use of direct voting by citizens on tax sources and rates" at the state and local level. When a vote of the public is utilized, a simple majority vote, rather than a super-majority, should decide the matter. Local Leagues also agreed that user fees established by local governing bodies in an open and public process need not be subject to a vote of the general public.

Proposition 218 would create significant barriers to adequate and flexible funding of



important local general government and property-related services, which the League supports. The immediate loss of revenue to local governments would exceed \$100 million. Future losses are difficult to estimate but may also be significant.

The weighted protest vote for assessments does not appear to assure better safeguards in the public's interest than current statute and may introduce new inequities into the system.

Proposition 218 grants huge voting power to corporations, large landowners and developers and reduces individual homeowner voting rights.

Three million renters will be denied the right to vote. Proposition 218 denies voting rights to renters. The measure is deceptive as it purports to provide more decision-making to the general public while, in reality, shifting much of the power to property owners of the highest valued properties who may or may not live in the community or be citizens of the state or country.

It forces taxpayers to pay millions in new costs. Under Proposition 218 every local tax or assessment must be voted on even if local residents don't want an election, and even for tiny assessments or increases that generate as little as a penny per day per household. Five thousand separate local elections would be required in 1997 costing tens of millions of taxpayer dollars. In addition local government will have extensive costs to compute the proportional benefit to each parcel.

Public Safety and other vital programs will be cut. Vital services for our communities such as police, fire, emergency medical services, park and recreation programs, and public libraries may be wiped out by this measure, leaving the future of such services at risk.

Assessment for these purposes becomes illegal if "the service is available to the public at large in substantially the same manner as it is to property owners." That is why Police Chiefs, Fire Chiefs, the California Highway Patrol, the California Library Association and Professional Firefighters and Police Officers Associations oppose the measure.

The Legislative Analyst estimates that upon adoption local government revenue would immediately be reduced by more than \$100 million annually and may be reduced by an additional \$100 million over the next two years as elections are held on recently adopted taxes and existing assessments.

Proposition 218 imposes new taxes and diverts funds from classroom size reduction efforts in your public schools. Proposition 218 for the first time imposes a new assessment tax on publicly owned property. The new tax on public school property will divert millions of dollars away from the classroom. Libraries will lose funds also. That is why the California Library Association opposes the initiative.



Special utility assessments that pay for LifeLine services for seniors and the disabled would be prohibited.

Proposition 218 does not permit local officials to pass emergency assessments to deal with major natural disasters, such as the repair of roads, bridges and utility services damaged by storms, earthquakes or fires.

Separate public votes on a variety of revenue measures at each election will encourage piecemeal decision-making and discourage long range planning and policy development.

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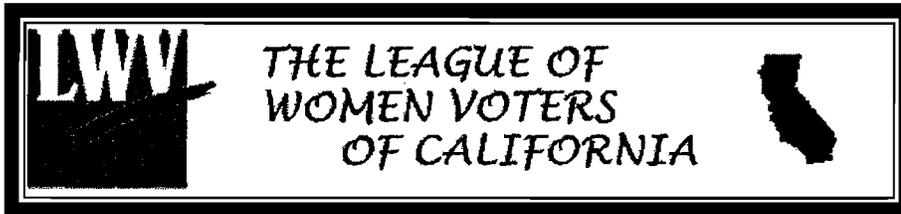
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LWV California Education Fund Nonpartisan Analysis of

## Proposition 218

**Voter Approval for Local Government Taxes. Limitations on Fees and Assessments.**

**Initiative Constitutional Amendment**

**The Question**

Should local government's authority to impose taxes, property-related assessments, and fees be subject to voter approval?

**The Situation**

Cities, counties, school districts, fire districts, library districts, and many other agents of local governments use taxes, assessment, and fees to raise revenues to pay for the services they provide. Local governments currently have the authority to raise some of these revenues without voter approval.

**The Proposal**

Proposition 218 provides that:

- all future local general taxes must be approved by majority vote of the people and existing local general taxes established after December 31, 1994, without a vote of the people, be placed before the voters within two years.
- only property owners could vote on assessments, or, if a court voids this provision, approval would require a two-thirds vote of the electorate.
- proposed assessments and fees must be submitted to property owners for approval, after a detailed notice and public hearing.
- schools and other public agencies that own parcels in an assessment district must pay assessments.

- votes on assessments must be weighted proportionately on the basis of the amount that each parcel owner would pay.
- no assessment or fee can be higher than a parcel's share of a project's cost or service delivered to that parcel.
- a property-related fee cannot be charged for police, fire, library, ambulance, or any other service available to the general public.

Fiscal effect: The Legislative Analyst estimates that local governments would probably lose more than \$100 million annually in the near future, and longer-term losses could potentially exceed hundreds of millions of dollars annually. There would be comparable reductions in spending for local services.

### Supporters Say

- local government can still raise money for local services, such as police, fire, and education, as long as officials convince voters that the taxes are really necessary.
- property owners will be guaranteed the right to vote on homeowner assessments or fees and on taxes levied on utilities.
- utility lifeline rates for the elderly and disabled would not be affected.

### Opponents Say

- Proposition 218 would reduce current funding for police, fire, library, park, emergency programs, and senior and disabled services in California.
- corporations, wealthy landowners, foreigners, and developers would have more voting power than average homeowners.
- subsidized Lifeline utility programs for seniors and disabled citizens, which are funded by property tax assessment, would be prohibited.

*(Analysis prepared by the League of Women Voters of California Education Fund.)*

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EXHIBIT 7b



PROS  
CONS

EDUCATION FUND

Non-partisan information on Ballot Measures

LEAGUE OF WOMEN VOTERS OF CALIFORNIA

926 J STREET, SUITE 1000, SACRAMENTO, CA 95814

PRESS DATE: September 19, 1996

Q AND A'S  
ON BONDS

**What is a bond?**

A bond is a form of borrowing often used by state and local governments, usually to pay for capital outlay projects that would be too costly to pay for at one time. In effect, investors loan money to the government for a specific project and are repaid with interest over a specified number of years.

**Why are bonds on the ballot?**

In California, when the state wants to borrow money through a general obligation bond, this action must be approved by a majority of the voters. This ensures investors that the bonds are backed by the full faith and credit of the state.

**How do state general obligation bonds get on the ballot?**

They are put on the ballot by a two-thirds vote of both houses of the legislature with the signature of the Governor, or through a voter initiative.

**How does repayment affect the state budget and my taxes?**

The principal and interest on bonds are repaid from the state's General Fund. Money in the fund comes from personal income taxes (45%), sales taxes (36%), corporate income taxes (12%), and several smaller sources (7%).

**How are bonds repaid?**

Bonds are a debt and repaying them takes precedence over any other expenditure. Currently the state's bond debt is about 5.0% of the General Fund revenues. Three bond measures appear on this ballot; however, Proposition 206, the Veterans' Bond Act of 1996, is self-liquidating so it will not have an impact on the bond debt. If the other two measures on this ballot are approved, the ratio will peak at 5.3% in 1999-2000 and decline thereafter. As of July 1, 1996, the state had about \$20 billion of General Fund bond debt. If current bond measures are approved, the bond debt will be about \$21 billion in 1999-2000.

PROPOSITION

204

SAFE, CLEAN, RELIABLE  
WATER SUPPLY ACT

Legislative Bond Act

THE QUESTION

Should the state borrow \$995 million through the sale of general obligation bonds to restore and improve the Bay-Delta and for wastewater treatment, water supply and conservation, and local flood control and prevention?

THE SITUATION

The state has previously sold bonds to improve water quality, guarantee water supply, and provide for fish and wildlife habitat. Almost all the money from these bond measures has been spent or is committed to specific projects. The San Francisco Bay/Sacramento-San Joaquin Delta provides drinking water for 22 million Californians. It also provides irrigation for 45% of all the fruits and vegetables produced in the United States. The state and federal governments are working on a long-term joint project, CALFED, to manage the Bay-Delta and restore its ecology.

THE PROPOSAL

Proposition 204 will authorize the sale of \$995 million in general obligation bonds to restore and

improve the Bay-Delta for wastewater treatment, water supply and conservation, plus provide funds for some local flood control and to pay a portion of the state's share of the CALFED project.

**Fiscal effect:** If the bonds are sold at 6%, the principal and interest would be \$1.8 billion. The average cost per year would be \$71 million.

SUPPORTERS SAY

- the environment would be protected
- Proposition 204 is supported by both environmentalists and farmers
- more water would be available to meet increasing residential and agricultural needs.

OPPOSITIONERS SAY

- this measure is too expensive
- government projects have caused unsafe drinking water, pollution and injury to wildlife
- CALFED would be allowed to impose rules and regulations on private property rights.

PROPOSITION

205

YOUTHFUL AND ADULT OFFENDER  
LOCAL FACILITIES BOND ACT OF 1996.

Legislative Bond Act

THE QUESTION

Should the State of California borrow \$700 million through the sale of general obligation bonds to construct, renovate, remodel, and replace local juvenile and adult detention facilities?

THE SITUATION

Statewide, more than 50,000 juvenile offenders are under the supervision of county probation departments. They are detained in juvenile halls, or housed in ranches and camps. Adult offenders are housed in county jails. Almost all facilities are overcrowded. Since 1981, the voters have authorized the state to sell about \$1.6 billion in general obligation bonds to raise money to expand and improve county jail facilities; and since 1988, voters have authorized the sale of \$100 million in bonds for juvenile facilities. All of this money is fully committed for various projects.

THE PROPOSAL

- Proposition 205 would:
- authorize California to borrow \$700 million through the sale of general obligation bonds to construct, renovate, remodel, and replace county juvenile and adult detention facilities
  - provide \$350 million for adult facilities and \$350 million for juvenile facilities
  - require that counties provide 25 percent in matching funds

- require counties to develop a long-term plan that provides appropriate services for juvenile and adult offenders.

**Fiscal effect:** The Legislative Analyst says that if the bonds were sold at an interest rate of 6 percent, the cost would be about \$1.25 billion to pay off both the principal (\$700 million) and the interest (\$550 million). The average payment for principal and interest would be about \$50 million per year. Counties will incur increased costs to operate additional facilities constructed with these funds. Additional operating costs are unknown, but could be millions of dollars annually.

SUPPORTERS SAY

- Proposition 205 is needed to build and improve local jails and juvenile halls because most existing facilities are already overcrowded
- California's "three strikes" law puts violent career criminals in jail for longer periods, making more facilities necessary.

OPPOSITIONERS SAY

- "three strikes" locks convicted felons in state prisons, not in county jails; non-violent convicts should be placed under house arrest and monitored electronically
- throwing another \$1.2 billion at the present failed system won't make our streets safer—we need alternatives.

LEGISLATIVE INTENT SERVICE (800) 686-1917

b

## PROPOSITION

**218****VOTER APPROVAL FOR LOCAL GOVERNMENT TAXES.  
LIMITATIONS ON FEES, ASSESSMENTS, AND CHARGES.**

Initiative Constitutional Amendment

**THE QUESTION**

Should local government's ability to impose taxes, property-related assessments, and fees be subject to voter approval?

**THE SITUATION**

Cities, counties, school districts, fire districts, library districts, and many other agents of local governments use taxes, assessments and fees to raise revenues to pay for the services they provide. Local governments currently have the authority to raise some of these revenues without voter approval.

**THE PROPOSAL**

Proposition 218 provides that:

- all future local general taxes must be approved by majority vote of the people and existing local general taxes established after December 31, 1994, without a vote of the people, be placed before the voters within two years.
- only property owners could vote on assessments, or, if a court voids this provision,

approval would require a two-thirds vote of the electorate

- proposed assessments and fees must be submitted to property owners for approval, after a detailed notice and public hearing
- schools and other public agencies that own parcels in an assessment district must pay assessments
- votes on assessments must be weighted proportionately on the basis of the amount that each parcel owner would pay
- no assessment or fee can be higher than a parcel's share of a project's cost or service delivered to that parcel
- a fee cannot be charged for police, fire, library, ambulance, or any other service available to the general public.

**Fiscal effect:** The Legislative Analyst estimates that local governments would probably lose more than \$100 million annually in the near future, and longer-term losses could potentially exceed hundreds of millions of dollars annually. There would be comparable reductions in spending for local ser-

vices.

**SUPPORTERS SAY**

- local government can still raise money for local services, such as police, fire, and education, as long as officials convince voters that the taxes are really necessary
- property owners will be guaranteed the right to vote on homeowner assessments or fees and on taxes levied on utilities
- utility lifeline rates for the elderly and disabled would not be affected.

**OPPOSITIONS SAY**

- Proposition 218 would reduce current funding for police, fire, library, park, emergency programs, and senior and disabled services
- corporations, wealthy landowners, foreigners, and developers would have more voting power than average homeowners
- subsidized Lifeline utility programs for low-income seniors and disabled citizens, which are funded by property tax assessments, would be prohibited.

**THE VOTER'S BILL OF RIGHTS**

**WHEREAS**, the right of American citizens to vote is the fundamental right that defines our democracy...

**AND WHEREAS**, the strength of that democracy is dependent on the informed and active participation of its citizens...

**AND WHEREAS**, that strength is weakened when the electoral system fails to facilitate and encourage this right of citizen participation...

**THEREFORE**, I join with the League of Women Voters in proudly asserting and supporting this Voter's Bill of Rights as we move together as citizens to make these principles a reality.

**WE FIRMLY BELIEVE...**

**EVERY VOTER HAS THE RIGHT** to a simple and straightforward system of voter registration and elections that accommodates citizens' needs rather than bureaucratic convenience...

**EVERY VOTER HAS THE RIGHT** to political campaigns that are vigorously contested but fairly conducted, free of character assassination, innuendo and half truths...

**EVERY VOTER HAS THE RIGHT** to know political candidates' views, opinions and records on substantive issues...

**EVERY VOTER HAS THE RIGHT** to hear candidates debate the important issues facing the nation in open forums, free from campaign manipulation and partisan control...

**EVERY VOTER HAS THE RIGHT** to elections conducted under a system of campaign financing that enables challengers to compete effectively with incumbents and reduces the undue influence that special interest group money can exert on those elected...

**EVERY VOTER HAS THE RIGHT** to know that his or her vote has the same weight as every other person's vote and is not diluted by the partisan gerrymander of election district boundaries...

**AND, FINALLY, EVERY VOTER HAS THE RIGHT** to know that the principles of democratic government enumerated in the Voter's Bill of Rights will be upheld by every individual elected to serve in that government.

League of Women Voters  
Education Fund  
Washington, DC 20036

LEGISLATIVE INTENT SERVICE (800) 666-1911

^ LE: Prop 218

**LWW**

**EDUCATION FUND**

**LEAGUE OF WOMEN VOTERS OF CALIFORNIA**

# IN DEPTH

*analysis of ballot measures*

*GENERAL ELECTION DAY*

*TUESDAY, NOVEMBER 5*

# 1996

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C

As part of its Voters Service program, the League of Women Voters of California Education Fund publishes *In Depth* as an explanation of the propositions on the state ballot and main arguments, pro and con. The League does not judge the merits of the arguments nor guarantee their validity. Arguments come from many sources and are not limited to those found in the California Ballot Pamphlet.

One copy of *In Depth* is supplied free to each local League, ILO, MAL unit and DPM subscriber. They may copy it for their speakers. No portion of this publication may be reproduced by or for others without the permission of the League of Women Voters of California Education Fund.

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LEGISLATIVE INTENT SERVICE



## Proposition 218

### VOTER APPROVAL FOR LOCAL GOVERNMENT TAXES. LIMITATIONS ON FEES AND ASSESSMENTS. Initiative Constitutional Amendment

#### THE QUESTION

Should local government's authority to raise all general taxes be subject to approval by voters, and should local government's authority to raise property-related fees and assessments be subject to a vote by property owners?

#### PROVISIONS

Proposition 218 would amend the California Constitution by adding provisions to restrict the use of all local property-related fees; to restrict local governments' authority to increase existing general taxes or impose new ones; and to restrict local governments' authority to increase or impose new property-related assessments.

Proposition 218 would affect property related fees in the following ways:

- require that by July 1, 1997
  1. no property fee revenue could be used for any service other than a property related service
  2. no property owner's fee could be more than the cost of providing the service to that property owner
  3. no property fee could be levied for fire, police, ambulance, library service, or any other service widely available to the public
  4. fees could be levied only for services immediately available to property owners.
- to levy a new property-related fee, or increase an existing one, local governments would be required to:
  1. mail information about the fee to every property owner.
  2. reject the fee if a majority of the property owners protest in writing.
  3. hold an election on the fee (except if it is for water, sewer and refuse collection services).

Proposition 218 would affect local general taxes, including in charter cities, in the following ways:

- require that all future increases in existing local general taxes or proposed new ones be approved by a majority vote of the people
- require existing local general taxes established after December 31, 1994, without a vote of the people, to be placed before the voters within two years.

Proposition 218 would impact property-related assessments in the following ways:



- All new or increased assessments and some existing assessments would be required to meet the following four conditions:
  1. Local governments would be required to estimate the "special benefit" that each landowner actually receives as a result of the assessment—the real benefit to his or her or their property.
  2. The cost to the property owner could be no more than value of the service or the improvement to the property.
  3. Schools and other public agencies would be required to pay their share of the assessments.
  4. Assessments would have to be approved by a majority vote of the assessed property owners and those renters who pay the assessments.
- provide that certain existing property assessments would not have to be affirmed by property voters until such time as there is a proposal to increase them:
  1. assessments previously approved by the voters
  2. assessments where all funds are used to repay bond obligations
  3. assessments where all funds are used to pay for sidewalks, streets, sewers, water, flood control, drainage systems or "vector control" (i.e. mosquito abatement).

Proposition 218 would also:

- shift the burden of proof regarding the legality of assessments and fees to the local agencies and away from the taxpayer
- allow the use of the initiative process to repeal or reduce of any local tax, fee, or assessment
- consolidate any election to extend or increase a local general with the regularly scheduled election for the governing body proposing the tax; an exception to the consolidation is allowed if the governing body unanimously agrees that there is an emergency
- require that property owners' votes on assessments be weighted in proportion to the amount they would pay.

## BACKGROUND AND ANALYSIS

Proposition 218 is part of the ongoing struggle over local governments' taxing authority. Its principle sponsors are the proponents of Proposition 13 (1978) and Proposition 62 (1986). They believe that the intent of those voter approved measures to reduce local government taxes is being circumvented through loopholes which allowed local government officials to use property-related assessments and fees to finance projects and services.

Current law allows local governments to establish fees based on the approximate cost of providing service to different types of property, such as industrial, residential or commercial. And, schools and other public agencies do not pay assessment fees. Proposition 218 is intended to limit local governments' ability to use property-related fees and assessments and raise taxes. It does so by requiring local government officials to identify the specific purposes of such fees and assessments and separating those that benefit the general public from those that benefit property owners. It provides



that property owners cannot be charged fees and assessments for service available to the general public. Nor could they be required to pay more for any assessment or fee than they would receive in benefits. Schools and other agencies would be required to pay their share of any benefits. Revenues from fees could be used only for the purpose which they were imposed.

Current law provides for property owners to be notified if a new assessment is being proposed that would effect them; the law also requires that a public hearing be held. It is presumed that no protests exists unless they take steps to make their opposition known. If there is a majority protest, current law varies in its requirements. Some assessment protests can be overridden by a super-majority vote of the governing body. Others cannot be overridden by the governing body.

Proposition 218 requires that property owners be notified of what any proposed new or increased fee or assessment would personally cost them and that a mail-in ballot be provided so that they could vote for or against the proposal. If a majority of property owners vote "No", then the fee cannot be charged.

A YES vote on Proposition 218 means that local government's authority to impose taxes, assessments and certain property-related fees should be more limited.

A NO vote on Proposition 218 means that local governments can continue to collect existing fees, assessments and taxes.

#### **Fiscal Effect:**

By July 1997, local government would be required to reduce or repeal existing fees and assessments that do not meet the measure's restrictions. According to the Legislative Analyst, revenues to local governments statewide would probably be reduced by more than \$100 million a year. Within two years, local governments would be required to hold elections on some recently enacted taxes and existing assessments, resulting in a probable statewide loss of an additional \$100 million a year. The exact amount of reduction would depend on court decisions and the degree of success that local government would have in increasing local general taxes to make up for decreased property fees and assessments.

Effects in the local communities would vary widely because local governments differ in their reliance on fees and assessments. The fees and assessments that are most likely to be affected by this measure are those for fire protection, library and water services, business improvement programs and ambulance services. Overall, individual and business payments would decrease, and there would be comparable reductions in local public services.

#### **SUPPORTERS SAY**

- Property owners will be guaranteed the right to vote on homeowner assessments or fees and on taxes levied on utilities.
- Local government can still raise money for local services, such as police, fire, and

#### **OPPONENTS SAY**

- Proposition 218 reduces current funding for police, fire, library, park, emergency programs, and senior and disabled services across California.



### **SUPPORTERS SAY (continued)**

education, as long as officials convince voters that the taxes are really needed.

- Assessments are unfair because the poor pay the same assessments as the rich.
- Current law already allows property owners, including nonresidents, to act on property assessments on the basis of the assessment amount they pay.

### **OPPONENTS SAY (continued)**

- School crowding would worsen because public schools would be forced to pay new taxes.
- Subsidized Lifeline utility support for seniors and disabled citizens, which is funded by property assessments, is prohibited.
- Corporations, wealthy landowners, and developers will have more voting power than average homeowners.
- Over 3 million renters will be blocked from voting on assessments that affect them.
- Corporations, absentee landowners, and foreign citizens will have more say about community taxes than you and your neighbors.

### **SUPPORT AND OPPOSITION**

The official ballot arguments in support are signed by: Joel Fox, President, Howard Jarvis Taxpayers Association; Jim Conran, President, Consumers First; Richard Gann, President, Paul Gann's Citizens Committee; Carol Ross Evans, Vice President, California Taxpayers Association; Felicia Elkinson, Past President, Council of Sacramento Senior Organizations; Lee Phelps, Founder, Alliance of California Taxpayers and Involved Voters.

The official ballot arguments in opposition are signed by: Howard Owens, Congress of California Seniors; Lois Tinson, President, California Teachers Association; Ron Snider, President, California Association of Highway Patrolmen; Fran Packard, President, League of Women Voters of California; Chief Ron Lowenberg, President, California Police Chiefs' Association; Chief Jeff Bowman, President, California Fire Chiefs' Association.



EXHIBIT 8a

EXHIBIT 8a

Intentionally omitted

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July 20, 1996, Saturday, Ventura County Edition

**SECTION:** Metro; Part B; Page 4; Zones Desk

**LENGTH:** 783 words

**HEADLINE:** ANTI-TAX INITIATIVE MAY KILL LIBRARY ASSESSMENT;  
FINANCE: SUPERVISORS WILL DECIDE TUESDAY WHETHER TO CREATE A SPECIAL DISTRICT TO SUPPORT THE FLOUNDERING FACILITIES OR PUT THE ISSUE BEFORE VOTERS.

**BYLINE:** CARLOS V. LOZANO, TIMES STAFF WRITER

**BODY:**

The creation of a special tax district to help pay for Ventura County library services would be invalidated if a statewide anti-tax initiative is approved by voters in November, according to county attorneys.

Even if **Proposition 218** requiring voter approval of certain tax increases were challenged in court, it would likely be upheld, said Tony Waters, assistant county counsel. This is the first time that Waters' office has issued an official opinion on the initiative sponsored by the Howard Jarvis Taxpayers Assn.

Although three supervisors have voiced support for a benefit assessment district as a way to save the county's floundering library system, officials expressed frustration Friday over the obstacles they face. "It's hard to know what to do," Supervisor Maggie Kildee said. "People don't want any more taxes. But they want their libraries to stay open."

Though she has yet to make a final decision, Kildee said that she would not object if the board dropped plans for an assessment district in favor of holding a special tax election in March. A two-thirds majority would be needed for passage.

"We have to do something," Kildee said. "Maybe we just have to get it out there and say to the people, 'Are you willing to help us fund this thing?' One way or the other, the people of Ventura County are going to have

Ja



EXHIBIT 9a

Intentionally omitted

EXHIBIT 10a

Intentionally omitted

EXHIBIT 11a  
Intentionally omitted

**PROOF OF SERVICE**

I am employed in the County of Marin, State of California. I am over the age of eighteen years and am <sup>FB</sup>not a party to the above entitled action. My business address is 711 Sir Francis Drake Boulevard, San Anselmo, California. I served the following documents:

APPELLANT'S REQUEST FOR JUDICIAL NOTICE

VOLUME 1 (Exhibits 1-8)

on the following person(s) on the date set forth below, by personal delivery at the indicated addresses at my direction:

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San Francisco, California 94105

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300 South Grand Avenue  
Los Angeles, California 90071

- (By Mail) I caused such envelope with postage thereon fully prepaid to be placed in the United States Mail at San Anselmo, California.
- (Personal Service) I caused such envelope to be delivered by hand to the person of the addressee.
- (State) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.
- (Federal) I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

DATED: Friday, October 09, 2009



\_\_\_\_\_  
Ford Greene