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Voter Approval for Local Government Taxes. Limitations on Fees, Assessments, and Charges.

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

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.
-

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.

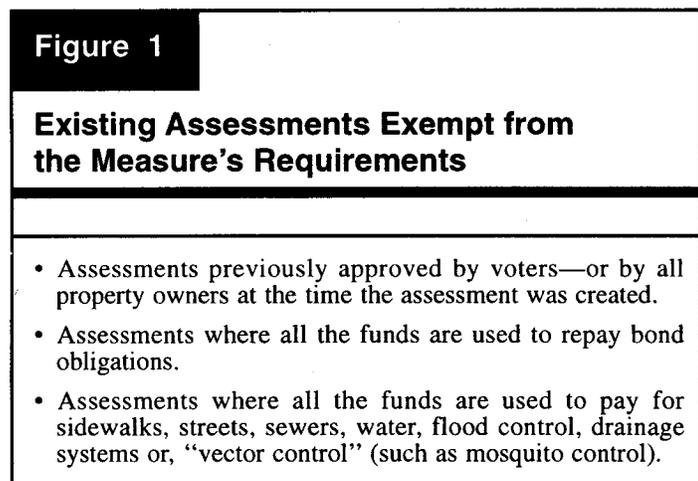
Some local governments also levy "standby charges," which are similar to assessments. Standby charges commonly finance water and sewer service expansions to new households and businesses. (The measure treats standby charges as assessments.)

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.

For text of Proposition 218 see page 108

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 axes 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.

(e) 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 each 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, "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 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.