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SUPREME COURT
FILED

S225589

IN THE SUPREME COURT
OF THE
STATE OF CALIFORNIA

OCT 28 2015

Frank A. McGuire Clerk

Deputy

ROLLAND JACKS and ROVE ENTERPRISES, INC.,

Plaintiffs and Appellants,

v.

CITY OF SANTA BARBARA,

Defendant and Respondent.

On Review from the Court of Appeal
for the Second Appellate District, Division Six, Case No. B253474

After an Appeal from the Superior Court of California,
County of Santa Barbara, Case Number 1383959,
Hon. Thomas P. Anderle

**MOTION FOR JUDICIAL NOTICE IN SUPPORT OF AMICUS
CURIAE BRIEF; SUPPORTING MEMORANDUM; SUPPORTING
DECLARATION OF ADAM W. HOFMANN**

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LEAGUE OF CALIFORNIA CITIES

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MOTION FOR JUDICIAL NOTICE

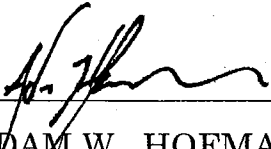
Pursuant to Evidence Code sections 452 and 459, and California Rules of Court, rule 8.252, amicus curiae the League of California Cities respectfully requests that this Court take judicial notice of the following documents:

- A. Spreadsheet entitled "Franchise Revenues as a Percentage of General Revenues – California Cities" compiled from information provided by the California State Controller.
- B. Excerpts of the "Ballot Pamphlet" for the November 5, 1996 General Election published and certified by the California Secretary of State, relating to Proposition 218.
- C. Excerpts of the "Official Voter Information Guide" for the November 2, 2010 General Election published and certified by the California Secretary of State, relating to Proposition 26.
- D. Chapter 4.24 of the Santa Barbara Municipal Code.

This motion is based on the attached Memorandum, Declaration of Adam W. Hofmann, and Exhibits A-D, as well as the Proposed Order filed and served herewith.

DATED: October 21, 2015 HANSON BRIDGETT LLP

By: _____


ADAM W. HOFMANN
Attorneys for Amicus Curiae
LEAGUE OF CALIFORNIA
CITIES

MEMORANDUM
IN SUPPORT OF MOTION FOR JUDICIAL NOTICE

This Court may take judicial notice of any matter subject to Evidence Code section 452. (Evid. Code, § 459; Cal. Rules of Court, rule 8.252.)

Exhibit A, a spreadsheet entitled "Franchise Revenues as a Percentage of General Revenues – California Cities," is subject to judicial notice because it reflects public records subject to immediate and accurate verification. (Evid. Code, § 452, subd. (h).) Anyone may verify that the figures collected in the spreadsheet are correct by referencing information published by the State Controller's Office or by examining the underlying reports, which the State Controller's Office collects from every city in California. The State Controller's Office maintains copies of the underlying documents at http://www.sco.ca.gov/ard_locrep_cities.html. (See *Moehring v. Thomas* (2005) 126 Cal.App.4th 1515, 1523, fn. 4 (*Moehring*) [holding websites maintained by public entities are subject to judicial notice].) Exhibit A is relevant because it reveals the strong interest of the League's members—cities throughout the state of California—in ensuring their ongoing authority to negotiate and collect franchise fees in accordance with state law. (Rule 8.252(a)(2)(A).)

Exhibit B, excerpts of the Ballot Pamphlet for the November 5, 1996 General Election, is subject to judicial notice under Evidence Code section 452, subdivision (c). (*Moore v. Superior Court* (2004) 117 Cal. App. 4th 401, 407, fn. 5 (*Moore*).) These materials set forth the arguments offered in favor of

Proposition 218, and “show the intent of the voters in passing an initiative measure.” (*Ibid.*) Exhibit B is relevant because it shows that voters never intended to limit franchise fees when enacting Proposition 218. (Rule 8.252(a)(2)(A).)

Exhibit C, excerpts of the Official Voter Information Guide for the November 2, 2010 General Election, is subject to judicial notice under Evidence Code section 452, subdivision (c). (*Moore, supra*, 117 Cal. App. 4th at p. 407, fn. 5.) These materials set forth the arguments offered in favor of Proposition 26, and “show the intent of the voters in passing an initiative measure.” (*Ibid.*) Exhibit C is relevant to this action because it shows that the voters never intended to limit franchise fees when enacting Proposition 26. (Rule 8.252(a)(2)(A).)

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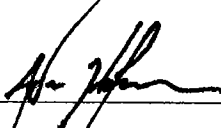
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Exhibit D, Chapter 4.24 of the Santa Barbara Municipal Code, is subject to judicial notice as the codified legislation of the City of Santa Barbara, made publicly available through the City's website. (Evid. Code, § 452, subd. (b); *City of Monterey v. Carrnshimba* (2013) 215 Cal.App.4th 1068, 1077, fn. 5; see also *Moehring, supra*, 126 Cal.App.4th at p. 1523, fn. 4 [holding public websites are subject to judicial notice].) Exhibit D is relevant to this action because it illuminates the critical differences between the franchise fee the City negotiated with Southern California Edison in 1999, and the Utility Users Tax the City enacted and imposed upon its residents. (Evid. Code, § 452, subd. (b).) These differences help demonstrate the Court of Appeal's error in concluding that the franchise fee was really a tax.

DATED: October 21, 2015 HANSON BRIDGETT LLP

By: _____


ADAM W. HOFMANN
Attorneys for Amicus Curiae
LEAGUE OF CALIFORNIA
CITIES

**DECLARATION OF ADAM W. HOFMANN
IN SUPPORT OF MOTION FOR JUDICIAL NOTICE**

I, Adam W. Hofmann, declare as follows:

1. I am an attorney admitted to practice before the courts of the State of California. I am senior counsel with Hanson Bridgett LLP, attorneys of record for amicus curiae, the League of California Cities, in this matter.

2. I have personal knowledge of the facts set forth herein. If called as a witness, I could and would competently testify to these facts.

3. Attached hereto as Exhibit A is a true and correct copy of a spreadsheet entitled "Franchise Revenues as a Percentage of General Revenues – California Cities" compiled from information provided by the California State Controller.

4. I obtained the spreadsheets attached as Exhibit A on October 20, 2015 from the website CaliforniaCityFinance.com, which I know to be operated by Michael Coleman, a renowned expert in California municipal finance. I am informed and believe that Mr. Coleman collected the data compiled in this spreadsheet from information made publicly available by the California State Controller's Office. The State Controller's Office makes this information available through its website, http://www.sco.ca.gov/ard_locrep_cities.html.

5. I found Exhibit B by going to the California Secretary of State's website, <http://www.sos.ca.gov/elections/voting-resources/voter-information-guides/>. That page, <http://www.sos.ca.gov/elections/ballot-measures/resources-and->

historical-information.htm, led me to a link to the University of California Hastings database, explaining "University of California Hastings College of the Law offers PDF versions of Voter Information Guides from 1911 to the present." I followed the link to <http://library.uchastings.edu/research/ballots/index.php>, then followed a further link for "California Ballot Pamphlets" to http://repository.uchastings.edu/ca_ballot_pamphlets/index.html, and selected "Voter Information Guide for 1996, General Election." I then printed all pages relating in any way to Proposition 218. A true and correct copy of that printout is attached hereto as Exhibit B.

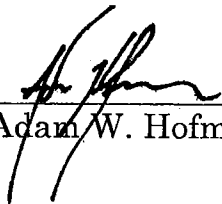
6. I found Exhibit C using the same web page operated by the University of California Hasting College of the Law, http://repository.uchastings.edu/ca_ballot_pamphlets/index.html, and the link "Voter Information Guide for 2010, General Election." I then printed all pages relating in any way to Proposition 26. A true and correct copy of that printout is attached hereto as Exhibit C.

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7. I found Exhibit D using the City of Santa Barbara's website, which provides a copy of Chapter 4.24 of the City's Municipal Code at <http://www.santabarbaraca.gov/civicax/filebank/blobdload.aspx?BlobID=17434>.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed October 21, 2015, at San Francisco, California.



Adam W. Hofmann

City	County	1991-92	1992-93	1993-94	1994-95	1995-96	1996-97	1997-98	1998-99	1999-00	2000-01	2001-02	2002-03	2003-04	2004-05	2005-06	2006-07	2007-08	2008-09	2009-10	2010-11	2011-12	2012-13	2013-14
Davis	Yuba	3%	3%	2%	4%	4%	2%	3%	3%	3%	3%	3%	4%	5%	3%	3%	4%	3%	3%	3%	3%	3%	3%	3%
West Sacramento	Yuba	3%	3%	3%	3%	3%	4%	3%	3%	3%	3%	2%	3%	2%	2%	2%	2%	2%	2%	2%	2%	2%	2%	1%
Winters	Yuba	3%	3%	3%	3%	3%	3%	3%	3%	3%	3%	3%	3%	3%	3%	3%	3%	3%	3%	3%	3%	3%	3%	3%
Woodland	Yuba	2%	3%	3%	4%	5%	4%	4%	5%	4%	4%	4%	5%	7%	3%	5%	5%	6%	6%	6%	6%	6%	6%	7%
Marysville	Yuba	3%	3%	3%	3%	3%	3%	4%	4%	4%	4%	4%	6%	8%	7%	7%	7%	7%	8%	8%	8%	8%	8%	8%
Wheatland	Yuba	7%	8%	10%	8%	7%	8%	11%	10%	10%	10%	11%	17%	13%	10%	9%	10%	15%	9%	10%	9%	8%	7%	6%

SERVICE RESPONSIBILITY:

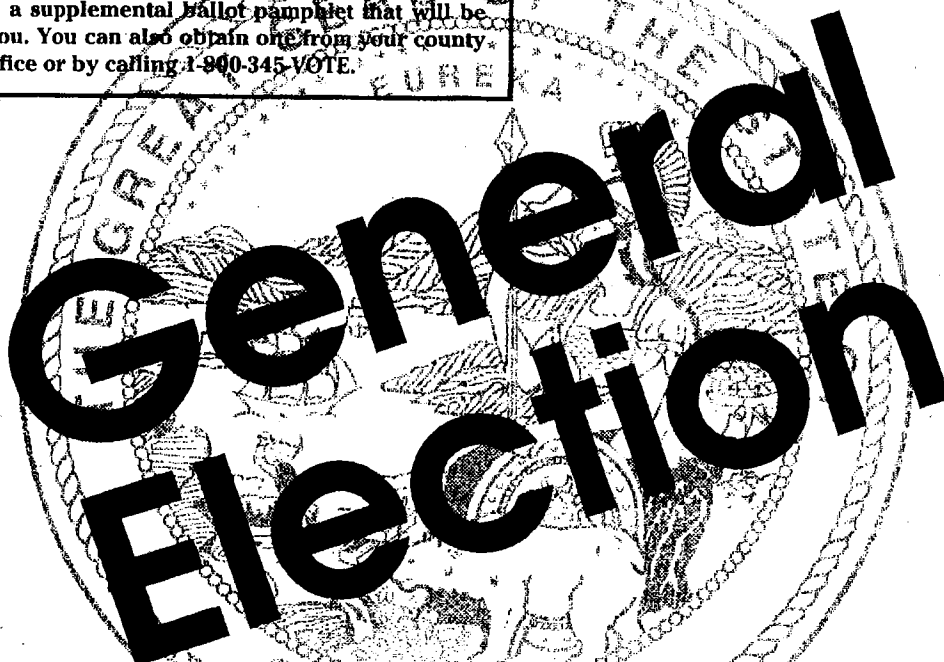
- b b-Full Service except Library
- b b-Full Service except Library
- b b-Full Service except Library
- a a-Full Service / \$ responsibility
- b b-Full Service except Library
- d d-Partly by city, line & library by others

California

BALLOT PAMPHLET

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 1-800-345-VOTE.



General Election

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;">204</p> <p>SAFE, CLEAN, RELIABLE WATER SUPPLY ACT.</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;">205</p> <p>YOUTHFUL AND ADULT OFFENDER LOCAL FACILITIES BOND ACT OF 1996.</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;">206</p> <p>VETERANS' BOND ACT OF 1996.</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;">207</p> <p>ATTORNEYS. FEES. RIGHT TO NEGOTIATE. FRIVOLOUS LAWSUITS.</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;">208</p> <p>CAMPAIGN CONTRIBUTIONS AND SPENDING LIMITS. RESTRICTS LOBBYISTS.</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 Graffi	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: http://www.actr.com/actr/
<i>Yes on Prop. 208: genuine campaign reform.</i> Prop. 208 will get big money out of politics, 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. Yes 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 www.vida.com/cfr	Californians Against Political Corruption 11965 Venice Blvd., Suite 408 Los Angeles, CA 90066 (310) 397-3404 http://www.best.com/~myk/fedup/

November 5, 1996, Ballot Measures—Continued

	SUMMARY	WHAT YOUR VOTE MEANS	
		YES	NO
<p style="text-align: center;">209</p> <p style="text-align: center;">PROHIBITION AGAINST DISCRIMINATION OR PREFERENTIAL TREATMENT BY STATE AND OTHER PUBLIC ENTITIES.</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;">210</p> <p style="text-align: center;">MINIMUM WAGE INCREASE.</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;">211</p> <p style="text-align: center;">ATTORNEY-CLIENT FEE ARRANGEMENTS, SECURITIES FRAUD, LAWSUITS.</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;">212</p> <p style="text-align: center;">CAMPAIGN CONTRIBUTIONS AND SPENDING LIMITS. REPEALS GIFT AND HONORARIA LIMITS. RESTRICTS LOBBYISTS.</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;">213</p> <p style="text-align: center;">LIMITATION ON RECOVERY TO FELONS, UNINSURED MOTORISTS, DRUNK DRIVERS.</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 http://www.publicaffairsweb.com/ccri 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 http://www.prop210.org</p>	<p>Alliance to Protect Small Businesses & Jobs 268 Bush Street, #3431 San Francisco, CA 94104 Web site: www.prop210no.org</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: http://www.tafl.com</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 & AARP. Vote no.</i></p>	<p>Californians Against Political Corruption 11965 Venice Boulevard, Suite 408 Los Angeles, CA 90066 (310) 397-3404 http://www.best.com/~myk/fedup/</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 www.vida.com/cfr</p>
<p>A yes 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">214</p> <p align="center">HEALTH CARE. CONSUMER PROTECTION.</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">215</p> <p align="center">MEDICAL USE OF MARIJUANA.</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">216</p> <p align="center">HEALTH CARE. CONSUMER PROTECTION. TAXES ON CORPORATE RESTRUCTURING.</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">217</p> <p align="center">TOP INCOME TAX BRACKETS. REINSTATEMENT. REVENUES TO LOCAL AGENCIES.</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">218</p> <p align="center">VOTER APPROVAL FOR LOCAL GOVERNMENT TAXES. LIMITATIONS ON FEES, ASSESSMENTS, AND CHARGES.</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
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.	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. Vote <i>no</i> .	Californians for Patient Rights 560 Twentieth Street Oakland, CA 94612 (510) 433-9360 Internet Address: http://www.yes-prop214.org	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: http://www.noprop214.org
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.	<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.	Californians for Medical Rights 1250 Sixth Street, #202 Santa Monica, CA 90401 (310) 394-2952 Fax: (310) 451-7494 Internet home page: http://www.prop215.org	Citizens for a Drug-Free California Sheriff Brad Gates, Chairman 4901 Birch Street Newport Beach, CA 92660 (714) 476-3017
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.	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. Vote <i>no</i> .	Harvey Rosenfield Consumers and Nurses for Patient Protection 1750 Ocean Park #200 Santa Monica, CA 90405 (310) 392-0522 E-Mail: network@primenet.com	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: http://www.noprop216.org
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. Vote <i>yes</i> .	<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>	Yes on Proposition 217 2500 Wilshire Blvd., Suite 508 Los Angeles, CA 90057 213-386-4036 Web site address: http://www.prop217.org	Californians for Jobs, Not More Taxes/No on 217 111 Anza Boulevard, Suite 406 Burlingame, CA 94010 (415) 340-0470
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>	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> .	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	Citizens for Voters' Rights 2646 Dupont Dr., Suite 20-412 Irvine, CA 92612 (714) 222-5438 http://www.prop218no.org



**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.

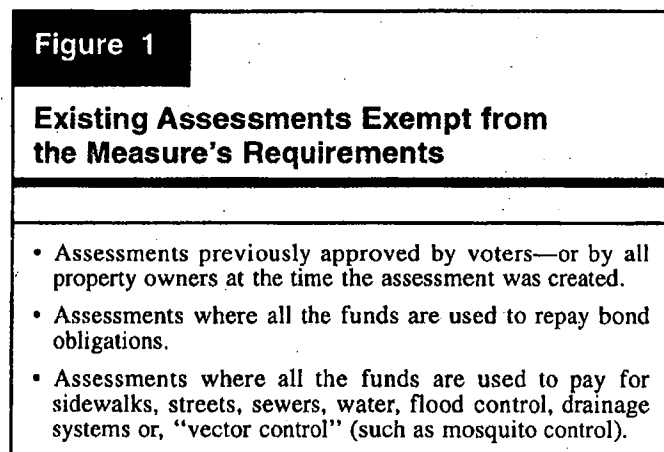
Some local governments also levy "standby charges," which are similar to assessments. Standby charges commonly finance water and sewer service expansions to new households and businesses. (The measure treats standby charges as assessments.)

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

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 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)

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 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, "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.

C A L I F O R N I A
GENERAL
ELECTION
TUESDAY, NOVEMBER 2, 2010

★ OFFICIAL VOTER INFORMATION GUIDE ★

Certificate of Correctness

I, Debra Bowen, Secretary of State of the State of California, hereby certify that the measures included herein will be submitted to the electors at the General Election to be held on November 2, 2010, and that this guide has been prepared in accordance with the law.

Witness my hand and the Great Seal of the State in Sacramento, California, this 10th day of August, 2010.

Debra Bowen



Debra Bowen
Secretary of State



Secretary of State

Dear Fellow Voter:

By registering to vote, you have taken the first step in playing an active role in deciding California's future. Now, to help you make your decisions, my office has created this Official Voter Information Guide that contains titles and summaries prepared by Attorney General Edmund G. Brown Jr.; impartial analyses of the law and potential costs to taxpayers prepared by Legislative Analyst Mac Taylor; arguments in favor of and against ballot measures prepared by proponents and opponents; text of the proposed laws prepared/proofed by Legislative Counsel Diane F. Boyer-Vine; and other useful information. The printing of the guide was done under the supervision of Acting State Printer Kevin P. Hannah.

This guide to statewide candidates and measures is just one of the useful tools for learning more about what will be on your specific ballot. Information about non-statewide candidates and measures is available in your county sample ballot booklet. (See page 89 of this guide for more details.)

Voting is easy, and any registered voter may vote by mail, or in his or her local polling place. The last day to request a vote-by-mail ballot from your county elections office is October 26.

There are more ways to participate in the electoral process. You can:

- Be a poll worker on Election Day, helping to make voting easier for all eligible voters and protecting ballots until they are counted by elections officials;
- Spread the word about voter registration deadlines and voting rights through emails, phone calls, brochures, and posters; and
- Help educate other voters about the candidates and issues by organizing discussion groups or participating in debates with friends, family, and community leaders.

For more information about how and where to vote, as well as other ways you can participate in the electoral process, call (800) 345-VOTE or visit www.sos.ca.gov.

It is a wonderful privilege in a democracy to have a choice and the right to voice your opinion. As you know, some contests really do come down to a narrow margin of just a few votes. Whether you cast your ballot at a polling place or by mail, I encourage you to take the time to carefully read about each candidate and ballot measure—and to know your voting rights.

Thank you for taking your civic responsibility seriously and making your voice heard!

VISIT THE SECRETARY OF STATE'S WEBSITE TO:

- View information on statewide ballot measures www.voterguide.sos.ca.gov
- Research campaign contributions and lobbying activity <http://cal-access.sos.ca.gov/campaign>
- Find your polling place on Election Day www.sos.ca.gov/elections/elections_ppl.htm
- Obtain vote-by-mail ballot information www.sos.ca.gov/elections/elections_m.htm
- Watch live election results after polls close on Election Day <http://vote.sos.ca.gov>

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QUICK-REFERENCE GUIDE

PROP 19 LEGALIZES MARIJUANA UNDER CALIFORNIA BUT NOT FEDERAL LAW. PERMITS LOCAL GOVERNMENTS TO REGULATE AND TAX COMMERCIAL PRODUCTION, DISTRIBUTION, AND SALE OF MARIJUANA. INITIATIVE STATUTE.

SUMMARY

Put on the Ballot by Petition Signatures

Allows people 21 years old or older to possess, cultivate, or transport marijuana for personal use. Fiscal Impact: Depending on federal, state, and local government actions, potential increased tax and fee revenues in the hundreds of millions of dollars annually and potential correctional savings of several tens of millions of dollars annually.

On August 10, 2010, the State Legislature and Governor removed Proposition 18 from the ballot.

WHAT YOUR VOTE MEANS

YES A YES vote on this measure means: Individuals age 21 or older could, under state law, possess and cultivate limited amounts of marijuana for personal use. In addition, the state and local governments could authorize, regulate, and tax commercial marijuana-related activities under certain conditions. These activities would remain illegal under federal law.

NO A NO vote on this measure means: The possession and cultivation of marijuana for personal use and commercial marijuana-related activities would remain illegal under state law, unless allowed under the state's existing medical marijuana law.

ARGUMENTS

PRO COMMON SENSE CONTROL OF MARIJUANA. Stops wasting taxpayer dollars on failed marijuana prohibition. Controls and taxes marijuana like alcohol. Makes marijuana available *only* to adults. Adds criminal penalties for giving it to anyone under 21. Weakens drug cartels. Enforces road and workplace safety. Generates billions in revenue. Saves taxpayers money.

CON Opposed by Mothers Against Drunk Driving (MADD) because allows drivers to smoke marijuana until the moment they climb behind the wheel. Endangers public safety. Jeopardizes \$9,400,000,000.00 in school funding, billions in federal contracts, thousands of jobs. Opposed by California's Sheriffs, Police Chiefs, Firefighters and District Attorneys. Vote "No" on 19.

FOR ADDITIONAL INFORMATION

FOR
James Rigdon
Yes on Proposition 19
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(510) 268-9701
info@taxcannabis.org
www.yeson19.com

AGAINST
No On Proposition 19—
Public Safety First
info@NoOnProposition19.com
www.NoOnProposition19.com

QUICK-REFERENCE GUIDE

PROP 20 REDISTRICTING OF CONGRESSIONAL DISTRICTS. INITIATIVE CONSTITUTIONAL AMENDMENT.

SUMMARY

Put on the Ballot by Petition Signatures

Removes elected representatives from process of establishing congressional districts and transfers that authority to recently-authorized 14-member redistricting commission comprised of Democrats, Republicans, and representatives of neither party. Fiscal Impact: No significant net change in state redistricting costs.

WHAT YOUR VOTE MEANS

YES A YES vote on this measure means: The responsibility to determine the boundaries of California's districts in the U.S. House of Representatives would be moved to the Citizens Redistricting Commission, a commission established by Proposition 11 in 2008. (Proposition 27 on this ballot also concerns redistricting issues. If both Proposition 20 and Proposition 27 are approved by voters, the proposition receiving the greater number of "yes" votes would be the only one to go into effect.)

NO A NO vote on this measure means: The responsibility to determine the boundaries of California's districts in the U.S. House of Representatives would remain with the Legislature.

ARGUMENTS

PRO TAXPAYER, GOOD GOVERNMENT GROUPS SUPPORT 20 so the voter-approved Citizens Redistricting Commission will draw fair districts for the Legislature AND Congress. POLITICIANS oppose 20 so they can keep power to draw "safe" Congressional districts. YES on 20 helps us vote politicians out of office for not doing their jobs.

CON Vote No on 20. Accountability to the people is the fundamental principle of our form of government. But 20 gives a non-accountable fourteen-person bureaucracy even more power. And this bureaucracy will cost you money! Our state is in crisis! Unemployment, crime, massive debt. Stop the nonsense. No on 20.

FOR ADDITIONAL INFORMATION

FOR
Yes on 20, No on 27—Hold Politicians Accountable, a coalition of taxpayers, seniors, good government groups, small business and community organizations.
925 University Ave.
Sacramento, CA 95825
(866) 395-6121
email@yes20no27.org
www.yesprop20.org

AGAINST
No on 20
6380 Wilshire Boulevard,
Suite 1612
Los Angeles, CA 90048
(323) 655-4065
www.noprop20.org

PROP 21 ESTABLISHES \$18 ANNUAL VEHICLE LICENSE SURCHARGE TO HELP FUND STATE PARKS AND WILDLIFE PROGRAMS. GRANTS SURCHARGED VEHICLES FREE ADMISSION TO ALL STATE PARKS. INITIATIVE STATUTE.

SUMMARY

Put on the Ballot by Petition Signatures

Exempts commercial vehicles, trailers and trailer coaches from the surcharge. Fiscal Impact: Annual increase to state revenues of \$500 million from surcharge on vehicle registrations. After offsetting some existing funding sources, these revenues would provide at least \$250 million more annually for state parks and wildlife conservation.

WHAT YOUR VOTE MEANS

YES A YES vote on this measure means: An \$18 annual surcharge would be added to the amount paid when a person registers a motor vehicle. The surcharge revenues would be used to provide funding for state park and wildlife conservation programs. Vehicles subject to the surcharge would have free admission and parking at all state parks.

NO A NO vote on this measure means: State park and wildlife conservation programs would continue to be funded through existing state and local funding sources. Admission and parking fees could continue to be charged for vehicles entering state parks.

ARGUMENTS

PRO California's state parks and beaches are in peril and face irreparable damage. Prop. 21 establishes vitally-needed Trust Fund to keep parks open, maintained, and safe. Protects economic benefits to California from parks-related tourism. Prohibits politicians' raids, and mandates Annual Audits and Citizens' Oversight.

CON Prop. 21 is a cynical plan to bring back the car tax. Politicians in Sacramento are already scheming to divert existing park funds to other wasteful programs so overall park funding doesn't increase but car taxes do. Say No to car taxes and wrong priorities. No on 21.

FOR ADDITIONAL INFORMATION

FOR
Yes on 21: Californians for State Parks and Wildlife Conservation
info@yesforstateparks.com
www.YesForStateParks.com

AGAINST
Rob Stutzman
Californians Against Car Taxes,
No on Proposition 21
1415 L Street, Suite 430
Sacramento, CA 95814

QUICK-REFERENCE GUIDE

PROP 22 PROHIBITS THE STATE FROM BORROWING OR TAKING FUNDS USED FOR TRANSPORTATION, REDEVELOPMENT, OR LOCAL GOVERNMENT PROJECTS AND SERVICES. INITIATIVE CONSTITUTIONAL AMENDMENT.

PROP 23 SUSPENDS IMPLEMENTATION OF AIR POLLUTION CONTROL LAW (AB 32) REQUIRING MAJOR SOURCES OF EMISSIONS TO REPORT AND REDUCE GREENHOUSE GAS EMISSIONS THAT CAUSE GLOBAL WARMING, UNTIL UNEMPLOYMENT DROPS TO 5.5 PERCENT OR LESS FOR FULL YEAR. INITIATIVE STATUTE.

SUMMARY *Put on the Ballot by Petition Signatures*

SUMMARY *Put on the Ballot by Petition Signatures*

Prohibits State, even during severe fiscal hardship, from delaying distribution of tax revenues for these purposes. Fiscal Impact: Decreased state General Fund spending and/or increased state revenues, probably in the range of \$1 billion to several billions of dollars annually. Comparable increases in funding for state and local transportation programs and local redevelopment.

Fiscal Impact: Likely modest net increase in overall economic activity in the state from suspension of greenhouse gases regulatory activity, resulting in a potentially significant net increase in state and local revenues.

WHAT YOUR VOTE MEANS

WHAT YOUR VOTE MEANS

YES A YES vote on this measure means: The state's authority to use or redirect state fuel tax and local property tax revenues would be significantly restricted.

NO A NO vote on this measure means: The state's current authority over state fuel tax and local property tax revenues would not be affected.

YES A YES vote on this measure means: Certain existing and proposed regulations authorized under state law ("Assembly Bill 32") to address global warming would be suspended. These regulations would remain suspended until the state unemployment rate drops to 5.5 percent or lower for one year.

NO A NO vote on this measure means: The state could continue to implement the measures authorized under Assembly Bill 32 to address global warming.

ARGUMENTS

ARGUMENTS

PRO YES on 22 stops state politicians from taking local government funds. 22 stops the State from taking gas taxes voters have dedicated to transportation. 22 protects local services: 9-1-1 emergency response, police, fire, libraries, transit, road repairs. Supported by California Fire Chiefs Association, California Police Chiefs Association, California Library Association.

CON California's teachers, firefighters, nurses, and taxpayer advocates say NO on 22. If 22 passes, public schools stand to lose billions of dollars. 22 takes money firefighters use to fight fires and natural disasters while protecting redevelopment agencies and their developer friends. Another proposition that sounds good, but makes things worse.

PRO Yes on 23 saves jobs, prevents energy tax increases, and helps families, while preserving California's clean air and water laws. California can't afford self-imposed energy costs that don't reduce global warming. 2.3 million Californians are unemployed; Proposition 23 will save over a million jobs that would otherwise be destroyed. www.yeson23.com

CON Texas oil companies designed 23 to kill clean energy and air pollution standards in California. 23 threatens public health with more air pollution, increases dependence on costly oil, and kills competition from job-creating California wind and solar companies. American Lung Association in California, California Professional Firefighters: NO on 23.

FOR ADDITIONAL INFORMATION

FOR ADDITIONAL INFORMATION

FOR Yes on 22, Californians to Protect Local Taxpayers & Vital Services
1121 L Street #803
Sacramento, CA 95814
(888) 562-5551
info@savelocalservices.com
www.SaveLocalServices.com

AGAINST No on 22—Citizens Against Taxpayer Giveaways, sponsored by California Professional Firefighters.
Joshua Heller
1510 J Street, Suite 210
Sacramento, CA 95814
(916) 443-7817
www.votenoprop22.com

FOR Yes on 23—A coalition of taxpayers, small business, firefighters, labor, agriculture, transportation, food producers, energy and forestry companies and air quality officials.
1215 K Street, Suite 2260
Sacramento, CA 95814
(866) 247-0911
info@yeson23.com
www.yeson23.com

AGAINST No on 23: Californians to Stop the Dirty Energy Proposition
(888) 445-7880
info@factson23.com
Factson23.com

QUICK-REFERENCE GUIDE

PROP 24 REPEALS RECENT LEGISLATION THAT WOULD ALLOW BUSINESSES TO LOWER THEIR TAX LIABILITY. INITIATIVE STATUTE.

SUMMARY

Put on the Ballot by Petition Signatures

Fiscal Impact: Increased state revenues of about \$1.3 billion each year by 2012–13 from higher taxes paid by some businesses. Smaller increases in 2010–11 and 2011–12.

WHAT YOUR VOTE MEANS

YES A YES vote on this measure means: Three business tax provisions will return to what they were before 2008 and 2009 law changes. As a result: (1) a business will be less able to deduct losses in one year against income in other years, (2) a multistate business will have its California income determined by a calculation using three factors, and (3) a business will not be able to share tax credits with related businesses.

NO A NO vote on this measure means: Three business tax provisions that were recently changed will not be affected. As a result of maintaining current law: (1) a business will be able to deduct losses in one year against income in more situations, (2) most multistate businesses could choose to have their California income determined based only on a single sales factor, and (3) a business will be able to share its tax credits with related businesses.

ARGUMENTS

PRO Prop. 24 stops \$1.7 billion in new special tax breaks for wealthy, multi-state corporations. They get unfair tax loopholes without creating one new job while small businesses get virtually no benefit. Public schools, healthcare and public safety should come before tax loopholes. Vote YES on 24—the Tax Fairness Act.

CON CALIFORNIA NEEDS JOBS, NOT A JOBS TAX! Prop. 24 doesn't guarantee \$1 for our classrooms and REDUCES long-term revenues for schools and vital services. It would hurt small businesses, tax job creation, send jobs OUT of California—costing us 144,000 jobs. Families can't afford 24's new taxes. No on 24!

FOR ADDITIONAL INFORMATION

FOR
Yes on 24, the Tax Fairness Act sponsored by the California Teachers Association
Richard Stapler
1510 J Street, Suite 210
Sacramento, CA 95814
(916) 443-7817
www.YESPROP24.ORG

AGAINST
No on 24—Stop the Jobs Tax, a coalition of taxpayers, employers, small businesses, former educators and high tech and biotechnology organizations
111 Anza Boulevard, #406
Burlingame, CA 94010
(800) 610-4150
info@stopprop24.com
www.StopProp24.com

PROP 25 CHANGES LEGISLATIVE VOTE REQUIREMENT TO PASS BUDGET AND BUDGET-RELATED LEGISLATION FROM TWO-THIRDS TO A SIMPLE MAJORITY. RETAINS TWO-THIRDS VOTE REQUIREMENT FOR TAXES. INITIATIVE CONSTITUTIONAL AMENDMENT.

SUMMARY

Put on the Ballot by Petition Signatures

Legislature permanently forfeits daily salary and expenses until budget bill passes. **Fiscal Impact:** In some years, the contents of the state budget could be changed due to the lower legislative vote requirement in this measure. The extent of changes would depend on the Legislature's future actions.

WHAT YOUR VOTE MEANS

YES A YES vote on this measure means: The Legislature's vote requirement to send the annual budget bill to the Governor would be lowered from two-thirds to a majority of each house of the Legislature.

NO A NO vote on this measure means: The Legislature's vote requirement to send an annual budget bill to the Governor would remain unchanged at two-thirds of each house of the Legislature.

ARGUMENTS

PRO Prop. 25 reforms California's broken state budget process. Holds legislators accountable for late budgets by stopping their pay and benefits every day the budget is late. Ends budget gridlock by allowing a majority of legislators to pass the budget, but DOES NOT LOWER THE 2/3 vote required to raise taxes.

CON Politicians and special interests are promoting Prop. 25 to make it easier for politicians to raise taxes and restrict our constitutional right to reject bad laws. 25 doesn't punish politicians. They'll just increase their lavish expense accounts. NO on 25—Protect constitutional safeguards against higher taxes and wasteful spending.

FOR ADDITIONAL INFORMATION

FOR
Yes on 25, Citizens for an On-Time Budget sponsored by teachers, nurses, firefighters and other public employee groups
Andrea Landis
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Sacramento, CA 95814
(916) 443-7817
www.YESPROP25.ORG

AGAINST
Stop Hidden Taxes—No on 25/Yes on 26, a coalition of taxpayers, small businesses, environmental experts, good government groups, minorities, farmers, and vineyards.
(866) 218-4450
info@nomorehiddentaxes.com
www.no25yes26.com

QUICK-REFERENCE GUIDE

PROP 26 REQUIRES THAT CERTAIN STATE AND LOCAL FEES BE APPROVED BY TWO-THIRDS VOTE. FEES INCLUDE THOSE THAT ADDRESS ADVERSE IMPACTS ON SOCIETY OR THE ENVIRONMENT CAUSED BY THE FEE-PAYER'S BUSINESS. INITIATIVE CONSTITUTIONAL AMENDMENT.

SUMMARY *Put on the Ballot by Petition Signatures*

Fiscal Impact: Depending on decisions by governing bodies and voters, decreased state and local government revenues and spending (up to billions of dollars annually). Increased transportation spending and state General Fund costs (\$1 billion annually).

WHAT YOUR VOTE MEANS

YES A YES vote on this measure means: The definition of taxes would be broadened to include many payments currently considered to be fees or charges. As a result, more state and local proposals to increase revenues would require approval by two-thirds of each house of the Legislature or by local voters.

NO A NO vote on this measure means: Current constitutional requirements regarding fees and taxes would not be changed.

ARGUMENTS

PRO Yes on 26 stops state and local politicians from raising Hidden Taxes on goods like food and gas, by disguising taxes as "fees" and circumventing constitutional requirements for passing higher taxes. Don't be misled. 26 preserves California's strong environmental and consumer laws AND protects taxpayers and consumers from Hidden Taxes.

CON Big oil, tobacco, and alcohol corporations want you to pay for the damages they cause. Prop. 26 was written behind closed doors and without public input. Don't protect polluters. League of Women Voters of California, Firefighters, Police Officers, Nurses, and Sierra Club all say NO on 26.

FOR ADDITIONAL INFORMATION

FOR
Stop Hidden Taxes—No on 25/Yes on 26, a coalition of taxpayers, small businesses, environmental experts, good government groups, minorities, farmers, and vineyards.
(866) 218-4450
info@nomorehiddentaxes.com
www.no25yes26.com

AGAINST
Doug Linney
Taxpayers Against Protecting Polluters
1814 Franklin Street, Suite 510
Oakland, CA 94612
(510) 444-4710
stopprotectingpolluters@gmail.com
www.stoppolluterprotection.com

PROP 27 ELIMINATES STATE COMMISSION ON REDISTRICTING. CONSOLIDATES AUTHORITY FOR REDISTRICTING WITH ELECTED REPRESENTATIVES. INITIATIVE CONSTITUTIONAL AMENDMENT AND STATUTE.

SUMMARY *Put on the Ballot by Petition Signatures*

Eliminates 14-member redistricting commission. Consolidates authority for establishing state Assembly, Senate, and Board of Equalization districts with elected representatives who draw congressional districts. Fiscal Impact: Possible reduction of state redistricting costs of around \$1 million over the next year. Likely reduction of these costs of a few million dollars once every ten years beginning in 2020.

WHAT YOUR VOTE MEANS

YES A YES vote on this measure means: The responsibility to determine the boundaries of State Legislature and Board of Equalization districts would be returned to the Legislature. The Citizens Redistricting Commission, established by Proposition 11 in 2008 to perform this function, would be eliminated. (Proposition 20 on this ballot also concerns redistricting issues. If both Proposition 27 and Proposition 20 are approved by voters, the proposition receiving the greater number of "yes" votes would be the only one to go into effect.)

NO A NO vote on this measure means: The responsibility to determine the boundaries of Legislature and Board of Equalization districts would remain with the Citizens Redistricting Commission.

ARGUMENTS

PRO VOTE YES ON 27 TO SAVE TAXPAYER DOLLARS AND END NONSENSE REAPPORTIONMENT GAMES. California is in crisis. We are broke, deeply in debt, unemployment is far too high. Proposition 27 is the only chance for voters to say "Enough is enough! Stop wasting taxpayer dollars on nonsense." Yes on 27.

CON Politicians behind 27 want to repeal the voter-approved Citizens Redistricting Commission. They want the power to draw safe districts for themselves and will spend or say anything to get it back. Don't buy it. TAXPAYER GROUPS, GOOD GOVERNMENT GROUPS, SENIORS SAY STOP THE POWER GRAB: NO on 27.

FOR ADDITIONAL INFORMATION

FOR
Yes on 27
10940 Wilshire Boulevard,
Suite 2000
Los Angeles, CA 90024
(310) 576-1233
www.yesprop27.org

AGAINST
Yes on 20, No on 27—Hold Politicians Accountable, a coalition of taxpayers, seniors, good government groups, small business and community organizations.
925 University Ave.
Sacramento, CA 95825
(866) 395-6121
email@yes20no27.org
www.noprop27.org

PROPOSITION
26

REQUIRES THAT CERTAIN STATE AND LOCAL FEES BE APPROVED BY TWO-THIRDS VOTE. FEES INCLUDE THOSE THAT ADDRESS ADVERSE IMPACTS ON SOCIETY OR THE ENVIRONMENT CAUSED BY THE FEE-PAYER'S BUSINESS. INITIATIVE CONSTITUTIONAL AMENDMENT.

OFFICIAL TITLE AND SUMMARY

PREPARED BY THE ATTORNEY GENERAL

REQUIRES THAT CERTAIN STATE AND LOCAL FEES BE APPROVED BY TWO-THIRDS VOTE. FEES INCLUDE THOSE THAT ADDRESS ADVERSE IMPACTS ON SOCIETY OR THE ENVIRONMENT CAUSED BY THE FEE-PAYER'S BUSINESS. INITIATIVE CONSTITUTIONAL AMENDMENT.

- Requires that certain state fees be approved by two-thirds vote of Legislature and certain local fees be approved by two-thirds of voters.
- Increases legislative vote requirement to two-thirds for certain tax measures, including those that do not result in a net increase in revenue, currently subject to majority vote.

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

- Decreased state and local government revenues and spending due to the higher approval requirements for new revenues. The amount of the decrease would depend on future decisions by governing bodies and voters, but over time could total up to billions of dollars annually.
- **Additional state fiscal effects from repealing recent fee and tax laws: (1) increased transportation program spending and increased General Fund costs of \$1 billion annually, and (2) unknown potential decrease in state revenues.**

ANALYSIS BY THE LEGISLATIVE ANALYST

BACKGROUND

State and local governments impose a variety of taxes, fees, and charges on individuals and businesses. Taxes—such as income, sales, and property taxes—are typically used to pay for general public services such as education, prisons, health, and social services. Fees and charges, by comparison, typically pay for a particular service or program benefitting individuals or businesses. There are three broad categories of fees and charges:

- User fees—such as state park entrance fees and garbage fees, where the user pays for the cost of a specific service or program.

- Regulatory fees—such as fees on restaurants to pay for health inspections and fees on the purchase of beverage containers to support recycling programs. Regulatory fees pay for programs that place requirements on the activities of businesses or people to achieve particular public goals or help offset the public or environmental impact of certain activities.
- Property charges—such as charges imposed on property developers to improve roads leading to new subdivisions and assessments that pay for improvements and services that benefit the property owner.

Figure 1 Approval Requirements: State and Local Taxes, Fees, and Charges		
	State	Local
Tax	Two-thirds of each house of the Legislature for measures increasing state revenues.	<ul style="list-style-type: none"> • Two-thirds of local voters if the local government specifies how the funds will be used. • Majority of local voters if the local government does not specify how the funds will be used.
Fee	Majority of each house of the Legislature.	Generally, a majority of the governing body.
Property Charges	Majority of each house of the Legislature.	Generally, a majority of the governing body. Some also require approval by a majority of property owners or two-thirds of local voters.

PROP 26 REQUIRES THAT CERTAIN STATE AND LOCAL FEES BE APPROVED BY TWO-THIRDS VOTE. FEES INCLUDE THOSE THAT ADDRESS ADVERSE IMPACTS ON SOCIETY OR THE ENVIRONMENT CAUSED BY THE FEE-PAYER'S BUSINESS. INITIATIVE CONSTITUTIONAL AMENDMENT.

ANALYSIS BY THE LEGISLATIVE ANALYST

CONTINUED

State law has different approval requirements regarding taxes, fees, and property charges. As Figure 1 shows, state or local governments usually can create or increase a fee or charge with a majority vote of the governing body (the Legislature, city council, county board of supervisors, etc.). In contrast, increasing tax revenues usually requires approval by two-thirds of each house of the state Legislature (for state proposals) or a vote of the people (for local proposals).

Disagreements Regarding Regulatory Fees. Over the years, there has been disagreement regarding the difference between regulatory fees and taxes, particularly when the money is raised to pay for a program of broad public benefit. In 1991, for example, the state began imposing a regulatory fee on businesses that made products containing lead. The state uses this money to screen children at risk for lead poisoning, follow up on their treatment, and identify sources of lead contamination responsible for the poisoning. In court, the Sinclair Paint Company argued that this regulatory fee was a tax

because: (1) the program provides a broad public benefit, not a benefit to the regulated business, and (2) the companies that pay the fee have no duties regarding the lead poisoning program other than payment of the fee.

In 1997, the California Supreme Court ruled that this charge on businesses was a regulatory fee, not a tax. The court said government may impose regulatory fees on companies that make contaminating products in order to help correct adverse health effects related to those products. Consequently, regulatory fees of this type can be created or increased by (1) a majority vote of each house of the Legislature or (2) a majority vote of a local governing body.

PROPOSAL

This measure expands the definition of a tax and a tax increase so that more proposals would require approval by two-thirds of the Legislature or by local voters. Figure 2 summarizes its main provisions.

Figure 2

Major Provisions of Proposition 26

- ✓ **Expands the Scope of What Is a State or Local Tax**
 - Classifies as taxes some fees and charges that government currently may impose with a majority vote.
 - As a result, more state revenue proposals would require approval by two-thirds of each house of the Legislature and more local revenue proposals would require local voter approval.
- ✓ **Raises the Approval Requirement for Some State Revenue Proposals**
 - Requires a two-thirds vote of each house of the Legislature to approve laws that increase taxes on any taxpayer, even if the law's overall fiscal effect does not increase state revenues.
- ✓ **Repeals Recently Passed, Conflicting State Laws**
 - Repeals recent state laws that conflict with this measure, unless they are approved again by two-thirds of each house of the Legislature. Repeal becomes effective in November 2011.

Definition of a State or Local Tax

Expands Definition. This measure broadens the definition of a state or local tax to include many payments currently considered to be fees or charges. As a result, the measure would have the effect of increasing the number of revenue proposals subject to the higher approval requirements summarized in Figure 1. Generally, the types of fees and charges that would become taxes under the measure are ones that government imposes to address health, environmental, or other societal or economic concerns. Figure 3 provides examples of some regulatory fees that could be considered taxes, in part or in whole, under the measure. This is because these fees pay for many services that benefit the public broadly, rather than providing services directly to the fee payer. The state currently uses these types of regulatory fees to pay for most of its environmental programs.

Certain other fees and charges also could be considered to be taxes under the measure. For example, some business assessments could be considered to be taxes because government uses the assessment revenues to improve shopping districts

(such as providing parking, street lighting, increased security, and marketing), rather than providing a direct and distinct service to the business owner.

Some Fees and Charges Are Not Affected. The change in the definition of taxes would not affect most user fees, property development charges, and property assessments. This is because these fees and charges generally comply with Proposition 26's requirements already, or are exempt from its provisions. In addition, most other fees or charges in existence at the time of the November 2, 2010 election would not be affected unless:

- The state or local government later increases or extends the fees or charges. (In this case, the state or local government would have to comply with the approval requirements of Proposition 26.)
- The fees or charges were created or increased by a state law—passed between January 1, 2010 and November 2, 2010—that conflicts with Proposition 26 (discussed further below).

Approval Requirement for State Tax Measures

Current Requirement. The State Constitution currently specifies that laws enacted “for the purpose

**Figure 3
Regulatory Fees That Benefit the Public Broadly**

Oil Recycling Fee

The state imposes a regulatory fee on oil manufacturers and uses the funds for:

- Public information and education programs.
- Payments to local used oil collection programs.
- Payment of recycling incentives.
- Research and demonstration projects.
- Inspections and enforcement of used-oil recycling facilities.

Hazardous Materials Fee

The state imposes a regulatory fee on businesses that treat, dispose of, or recycle hazardous waste and uses the funds for:

- Clean up of toxic waste sites.
- Promotion of pollution prevention.
- Evaluation of waste source reduction plans.
- Certification of new environmental technologies.

Fees on Alcohol Retailers

Some cities impose a fee on alcohol retailers and use the funds for:

- Code and law enforcement.
- Merchant education to reduce public nuisance problems associated with alcohol (such as violations of alcohol laws, violence, loitering, drug dealing, public drinking, and graffiti).

of increasing revenues” must be approved by two-thirds of each house of the Legislature. Under current practice, a law that increases the amount of taxes charged to some taxpayers but offers an equal (or larger) reduction in taxes for other taxpayers has been viewed as not increasing revenues. As such, it can be approved by a majority vote of the Legislature.

New Approval Requirement. The measure specifies that state laws that result in *any* taxpayer paying a higher tax must be approved by two-thirds of each house of the Legislature.

State Laws in Conflict With Proposition 26

Repeal Requirement. Any state law adopted between January 1, 2010 and November 2, 2010 that conflicts with Proposition 26 would be repealed one year after the proposition is approved. This repeal would not take place, however, if two-thirds of each house of the Legislature passed the law again.

Recent Fuel Tax Law Changes. In the spring of 2010, the state increased fuel taxes paid by gasoline suppliers, but decreased other fuel taxes paid by gasoline retailers. Overall, these changes do not raise more state tax revenues, but they give the state greater spending flexibility over their use.

Using this flexibility, the state shifted about \$1 billion of annual transportation bond costs from the state's General Fund to its fuel tax funds. (The General Fund is the state's main funding source for schools, universities, prisons, health, and social services programs.) This action decreases the amount of money available for transportation programs, but helps the state balance its General Fund budget. Because the Legislature approved this tax change with a majority vote in each house, this law would be repealed in November 2011—unless the Legislature approved the tax again with a two-thirds vote in each house.

Other Laws. At the time this analysis was prepared (early in the summer of 2010), the Legislature and Governor were considering many new laws and funding changes to address the state's major budget difficulties. In addition, parts of this measure would be subject to future interpretation by the courts. As a result, we cannot determine the full range of state laws that could be affected or repealed by the measure.

FISCAL EFFECTS

Approval Requirement Changes. By expanding the scope of what is considered a tax, the measure would make it more difficult for state and local governments to pass new laws that raise revenues. This change would affect many environmental, health, and other regulatory fees (similar to the ones in Figure 3), as well as some business assessments and other levies. New laws to create—or extend—these types of fees and charges would be subject to the higher approval requirements for taxes.

The fiscal effect of this change would depend on future actions by the Legislature, local governing boards, and local voters. If the increased voting requirements resulted in some proposals not being approved, government revenues would be lower than otherwise would have occurred. This, in turn, likely would result in comparable decreases in state spending.

Given the range of fees and charges that would be subject to the higher approval threshold for taxes, the fiscal effect of this change could be major. Over time, we estimate that it could reduce government revenues and spending statewide by up to billions of dollars annually compared with what otherwise would have occurred.

Repeal of Conflicting Laws. Repealing conflicting state laws could have a variety of fiscal effects. For example, repealing the recent fuel tax laws would increase state General Fund costs by about \$1 billion annually for about two decades and increase funds available for transportation programs by the same amount.

Because this measure could repeal laws passed *after* this analysis was prepared and some of the measure's provisions would be subject to future interpretation by the courts, we cannot estimate the full fiscal effect of this repeal provision. Given the nature of the proposals the state was considering in 2010, however, it is likely that repealing any adopted proposals would decrease state revenues (or in some cases increase state General Fund costs). Under this proposition, these fiscal effects could be avoided if the Legislature approves the laws again with a two-thirds vote of each house.

26 PROP. REQUIRES THAT CERTAIN STATE AND LOCAL FEES BE APPROVED BY TWO-THIRDS VOTE. FEES INCLUDE THOSE THAT ADDRESS ADVERSE IMPACTS ON SOCIETY OR THE ENVIRONMENT CAUSED BY THE FEE-PAYER'S BUSINESS. INITIATIVE CONSTITUTIONAL AMENDMENT.

★ ARGUMENT IN FAVOR OF PROPOSITION 26 ★

YES ON PROPOSITION 26: STOP POLITICIANS FROM ENACTING HIDDEN TAXES

State and local politicians are using a loophole to impose Hidden Taxes on many products and services by calling them "fees" instead of taxes. Here's how it works:

At the State Level:

- California's Constitution requires a two-thirds vote of the Legislature for new or increased taxes, but the politicians use a gimmick to get around this by calling their taxes "fees" so they can pass them with only a *bare majority vote*.

At the Local Level:

- Most tax increases at the local level require voter approval. Local politicians have been calling taxes "fees" so they can bypass voters and raise taxes without voter permission—taking away your right to stop these Hidden Taxes at the ballot.

PROPOSITION 26 CLOSES THIS LOOPHOLE

Proposition 26 requires politicians to meet the same vote requirements to pass these Hidden Taxes as they must to raise other taxes, protecting California taxpayers and consumers by requiring these Hidden Taxes to be passed by a two-thirds vote of the Legislature and, at the local level, by public vote.

PROPOSITION 26 PROTECTS ENVIRONMENTAL AND CONSUMER REGULATIONS AND FEES

Don't be misled by opponents of Proposition 26. California has some of the strongest environmental and consumer protection laws in the country. Proposition 26 preserves those laws and PROTECTS LEGITIMATE FEES SUCH AS THOSE TO CLEAN UP ENVIRONMENTAL OR OCEAN DAMAGE, FUND NECESSARY CONSUMER REGULATIONS, OR PUNISH WRONGDOING, and for licenses for professional certification or driving.

DON'T LET THE POLITICIANS CIRCUMVENT OUR CONSTITUTION TO TAKE EVEN MORE MONEY FROM US

Politicians have proposed more than \$10 billion in Hidden Taxes. Here are a few examples of things they could apply Hidden

Taxes to unless we stop them:

- Food • Gas • Toys • Water
- Cell Phones • Electricity • Insurance • Beverages
- Emergency Services • Entertainment

PROPOSITION 26: HOLD POLITICIANS ACCOUNTABLE

"State politicians already raised taxes by \$18 billion. Now, instead of controlling spending to address the budget deficit, they're using this gimmick to increase taxes even more! It's time for voters to STOP the politicians by passing Proposition 26."—Teresa Casazza, California Taxpayers' Association

Local politicians play tricks on voters by disguising taxes as "fees" so they don't have to ask voters for approval. They need to control spending, not use loopholes to raise taxes! It's time to hold them accountable for runaway spending and to stop Hidden Taxes at the local level.

YES ON PROPOSITION 26: PROTECT CALIFORNIA FAMILIES

California families and small businesses can't afford new and higher Hidden Taxes that will kill jobs and hurt families. When government increases Hidden Taxes, consumers and taxpayers pay increased costs on everyday items.

"The best way out of this recession is to grow the economy and create jobs, not increase taxes. Proposition 26 will send a message to politicians that it's time to clean up wasteful spending in Sacramento."—John Kabateck, National Federation of Independent Business/California

VOTE YES ON PROPOSITION 26 TO STOP HIDDEN TAXES—www.No25Yes26.com

TERESA CASAZZA, President
California Taxpayers' Association
ALLAN ZAREMBERG, President
California Chamber of Commerce
JOEL FOX, President
Small Business Action Committee

★ REBUTTAL TO ARGUMENT IN FAVOR OF PROPOSITION 26 ★

Do you want corporations to write special protections into California's Constitution?

Should California protect polluters at the expense of public safety?

That's what Prop. 26 is: big oil, tobacco, and alcohol companies want taxpayers to pay for cleaning their mess. As a result, local police and fire departments will have fewer resources to keep us safe.

The claim that Prop. 26 won't harm consumers and the environment is false. Corporations are spending millions misleading voters into thinking that the payments made by companies that pollute or harm public health are "hidden taxes." The campaign's own website cited "Oil severance fee to mitigate oil spill clean up, and build larger response and enforcement capabilities" as a hidden tax.

Here are some other fees they don't want to pay—listed in their own documents:

- Fees on polluters to clean up hazardous waste
- Fees on oil companies for oil spill cleanup
- Fees on tobacco companies for the adverse health effects of tobacco products.

PROPOSITION 26 IS BAD FOR THE ENVIRONMENT, PUBLIC SAFETY, & TAXPAYERS.

The California Professional Firefighters, League of Women Voters of California, California Nurses Association, Sierra Club, Planning & Conservation League, Californians Against Waste, and California Tax Reform Association all oppose 26 because it would force ordinary citizens to pay for the damage done by polluters.

Californians can't afford to clean up polluters' messes when local governments are cutting essential services like police and fire departments.

**WE NEED TO PROTECT THE PUBLIC, NOT POLLUTERS!
VOTE NO on 26.**

RON COTTINGHAM, President
Peace Officers Research Association of California
WARNER CHABOT, Chief Executive Officer
California League of Conservation Voters
PATTY VELEZ, President
California Association of Professional Scientists

PROP 26 REQUIRES THAT CERTAIN STATE AND LOCAL FEES BE APPROVED BY TWO-THIRDS VOTE. FEES INCLUDE THOSE THAT ADDRESS ADVERSE IMPACTS ON SOCIETY OR THE ENVIRONMENT CAUSED BY THE FEE-PAYER'S BUSINESS. INITIATIVE CONSTITUTIONAL AMENDMENT.

★ **ARGUMENT AGAINST PROPOSITION 26** ★

Should polluters be protected from paying to clean up the damage they do?

Should taxpayers foot the bill instead?

The answer is NO, and that's why voters should reject Proposition 26, the Polluter Protection Act.

Who put Prop. 26 on the ballot? Oil, tobacco, and alcohol companies provided virtually all the funding for this measure, including Chevron, Exxon Mobil, and Phillip Morris.

Their goal: to shift the burden of paying for the damage these companies have done onto the taxpayers.

How does this work? Prop. 26 redefines payments for harm to the environment or public health as tax increases, requiring a 2/3 vote for passage.

Such payments, or pollution fees on public nuisances, would become much harder to enact—leaving taxpayers to foot the bill. California has enough problems without forcing taxpayers to pay for cleaning up after polluting corporations.

Companies that pollute, harm the public health, or create a public nuisance should be required to pay to cover the damage they cause.

But the big oil, tobacco, and alcohol corporations want you, the taxpayer, to pay for cleaning up their messes. That's why these corporations wrote Proposition 26 behind closed doors, with zero public input, and why they put up millions of dollars to get Proposition 26 on the ballot.

Proposition 26 is just another attempt by corporations to protect themselves at the expense of ordinary citizens. The problem isn't taxes "hidden" as fees; it's the oil and tobacco companies hiding their true motives:

- Polluters don't want to pay fees used to clean up hazardous waste.
- Oil companies don't want to pay fees used for cleaning up oil spills and fighting air pollution.
- Tobacco companies don't want to pay fees used for addressing the adverse health effects of tobacco products.

- Alcohol companies don't want to pay fees used for police protection in neighborhoods and programs to prevent underage drinking.

One of the so-called "hidden taxes" identified by the Proposition 26 campaign is a fee that oil companies pay in order to cover the cost of oil spill clean-up, like the one in the Gulf. The oil companies should be responsible for the mess they create, not the taxpayers.

Proposition 26 will harm local public safety and health, by requiring expensive litigation and endless elections in order for local government to provide basic services. Fees on those who do harm should cover such costs as policing public nuisances or repairing damaged roads.

The funds raised by these fees are used by state and local governments for essential programs like fighting air pollution, cleaning up environmental disasters and monitoring hazardous waste. They require corporations such as tobacco companies to pay for the harm they cause.

If Proposition 26 passes, these costs would have to be paid for by the taxpayers.

DON'T PROTECT POLLUTERS. Join California Professional Firefighters, California Federation of Teachers, California League of Conservation Voters, California Nurses Association, Consumer Federation of California, and California Alliance for Retired Americans, and vote NO on 26.

www.stoppolluterprotection.com

JANIS R. HIROHAMA, President
League of Women Voters of California

JANE WARNER, President
American Lung Association in California

BILL MAGAVERN, Director
Sierra Club California

★ **REBUTTAL TO ARGUMENT AGAINST PROPOSITION 26** ★

Proposition 26 fixes a loophole that allows politicians to impose new taxes on businesses and consumers by falsely calling them "fees".

Proposition 26 stops politicians from increasing Hidden Taxes on food, water, cell phones and even emergency services—**BILLIONS OF DOLLARS IN HIGHER COSTS THAT CONSUMERS WILL PAY, NOT BIG CORPORATIONS.**

Politicians and special interests oppose Prop. 26 because they want to take more money from working California families by putting "fees" on everything they can think of. Their interest is simple—more taxpayer money for the politicians to waste, including on lavish public pensions.

Here are the facts:

Prop. 26 protects legitimate fees and **WON'T ELIMINATE OR PHASE OUT ANY OF CALIFORNIA'S ENVIRONMENTAL OR CONSUMER PROTECTION LAWS**, including:

- Oil Spill Prevention and Response Act
- Hazardous Substance Control Laws
- California Clean Air Act
- California Water Quality Control Act
- Laws regulating licensing and oversight of Contractors, Attorneys and Doctors

"Proposition 26 doesn't change or undermine a single law protecting our air, ocean, waterways or forests—it simply stops the runaway fees politicians pass to fund ineffective programs."—Ryan Broddrick, former Director, Department of Fish and Game

Here's what Prop. 26 really does:

- **Requires a TWO-THIRDS VOTE OF THE LEGISLATURE FOR PASSING STATEWIDE HIDDEN TAXES** disguised as fees, just like the Constitution requires for regular tax increases.

- **Requires a POPULAR VOTE TO PASS LOCAL HIDDEN TAXES** disguised as fees, just like the Constitution requires for most other local tax increases.

YES on 26—Stop Hidden Taxes. Preserve our Environmental Protection Laws.

www.No25Yes26.com

JOHN DUNLAP, Former Chairman
California Air Resources Board

MANUEL CUNHA, JR., President
Nisei Farmers League

JULIAN CANETE, Chairman
California Hispanic Chamber of Commerce

(b) The Governor and the Governor-elect may require a state agency, officer or employee to furnish whatever information is deemed necessary to prepare the budget.

(c) (1) The budget shall be accompanied by a budget bill itemizing recommended expenditures.

(2) The budget bill shall be introduced immediately in each house by the persons chairing the committees that consider the budget.

(3) The Legislature shall pass the budget bill by midnight on June 15 of each year.

(4) Until the budget bill has been enacted, the Legislature shall not send to the Governor for consideration any bill appropriating funds for expenditure during the fiscal year for which the budget bill is to be enacted, except emergency bills recommended by the Governor or appropriations for the salaries and expenses of the Legislature.

(d) No bill except the budget bill may contain more than one item of appropriation, and that for one certain, expressed purpose. Appropriations from the General Fund of the State, except appropriations for the public schools; *and appropriations in the budget bill and in other bills providing for appropriations related to the budget bill*, are void unless passed in each house by rollcall vote entered in the journal, two-thirds of the membership concurring.

(e) (1) *Notwithstanding any other provision of law or of this Constitution, the budget bill and other bills providing for appropriations related to the budget bill may be passed in each house by rollcall vote entered in the journal, a majority of the membership concurring, to take effect immediately upon being signed by the Governor or upon a date specified in the legislation. Nothing in this subdivision shall affect the vote requirement for appropriations for the public schools contained in subdivision (d) of this section and in subdivision (b) of Section 8 of this article.*

(2) *For purposes of this section, "other bills providing for appropriations related to the budget bill" shall consist only of bills identified as related to the budget in the budget bill passed by the Legislature.*

(f) (f) The Legislature may control the submission, approval, and enforcement of budgets and the filing of claims for all state agencies.

(g) (g) For the 2004–05 fiscal year, or any subsequent fiscal year, the Legislature may not send to the Governor for consideration, nor may the Governor sign into law, a budget bill that would appropriate from the General Fund, for that fiscal year, a total amount that, when combined with all appropriations from the General Fund for that fiscal year made as of the date of the budget bill's passage, and the amount of any General Fund moneys transferred to the Budget Stabilization Account for that fiscal year pursuant to Section 20 of Article XVI, exceeds General Fund revenues for that fiscal year estimated as of the date of the budget bill's passage. That estimate of General Fund revenues shall be set forth in the budget bill passed by the Legislature.

(h) *Notwithstanding any other provision of law or of this Constitution, including subdivision (c) of this section, Section 4 of this article, and Sections 4 and 8 of Article III, in any year in which the budget bill is not passed by the Legislature by midnight on June 15, there shall be no appropriation from the current budget or future budget to pay any salary or reimbursement for travel or living expenses for Members of the Legislature during any regular or special session for the period from midnight on June 15 until the day that the budget bill is presented to the Governor. No salary or reimbursement for travel or living expenses forfeited pursuant to this subdivision shall be paid retroactively.*

SEC. 5. Severability.

If any of the provisions of this measure or the applicability of any provision of this measure to any person or circumstances shall be found to be unconstitutional or otherwise invalid, such finding shall not affect the remaining provisions or applications of this measure to other persons or circumstances, and to that extent the provisions of this measure are deemed to be severable.

PROPOSITION 26

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

This initiative measure amends sections of the California Constitution; therefore, existing provisions proposed to be deleted are printed in ~~strikeout type~~ and new provisions proposed to be added are printed in *italic type* to indicate that they are new.

PROPOSED LAW

SECTION 1. Findings and Declarations of Purpose.

The people of the State of California find and declare that:

(a) Since the people overwhelmingly approved Proposition 13 in 1978, the Constitution of the State of California has required that increases in state taxes be adopted by not less than two-thirds of the members elected to each house of the Legislature.

(b) Since the enactment of Proposition 218 in 1996, the Constitution of the State of California has required that increases in local taxes be approved by the voters.

(c) Despite these limitations, California taxes have continued to escalate. Rates for state personal income taxes, state and local sales and use taxes, and a myriad of state and local business taxes are at all-time highs. Californians are taxed at one of the highest levels of any state in the nation.

(d) Recently, the Legislature added another \$12 billion in new taxes to be paid by drivers, shoppers, and anyone who earns an income.

(e) This escalation in taxation does not account for the recent phenomenon whereby the Legislature and local governments have disguised new taxes as "fees" in order to extract even more revenue from California taxpayers without having to abide by these constitutional voting requirements. Fees couched as "regulatory" but which exceed the reasonable costs of actual regulation or are simply imposed to raise revenue for a new program and are not part of any licensing or permitting program are actually taxes and should be subject to the limitations applicable to the imposition of taxes.

(f) In order to ensure the effectiveness of these constitutional limitations, this measure also defines a "tax" for state and local purposes so that neither the Legislature nor local governments can circumvent these restrictions on increasing taxes by simply defining new or expanded taxes as "fees."

SECTION 2. Section 3 of Article XIII A of the California Constitution is amended to read:

SEC. 3. (a) ~~From and after the effective date of this article, any changes in state taxes enacted for the purpose of increasing revenues collected pursuant thereto~~ *Any change in state statute which results in any taxpayer paying a higher tax whether by increased rates or changes in methods of computation* must be imposed by an Act ~~act~~ passed by not less than two-thirds of all members elected to each of the two houses of the Legislature, except that no new ad valorem taxes on real property, or sales or transaction taxes on the sales of real property may be imposed.

(b) As used in this section, "tax" means any levy, charge, or exaction of any kind imposed by the State, except the following:

(1) A charge imposed for a specific benefit conferred or privilege granted directly to the payor that is not provided to those not charged, and which does not exceed the reasonable costs to the State of conferring the benefit or granting the privilege to the payor.

(2) A charge imposed for a specific government service or product provided directly to the payor that is not provided to those not charged, and which does not exceed the reasonable costs to the State of providing the service or product to the payor.

(3) A charge imposed for the reasonable regulatory costs to the State incident to issuing licenses and permits, performing investigations, inspections, and audits, enforcing agricultural marketing orders, and the administrative enforcement and adjudication thereof.

(4) A charge imposed for entrance to or use of state property, or the purchase, rental, or lease of state property, except charges governed by Section 15 of Article XI.

(5) A fine, penalty, or other monetary charge imposed by the judicial branch of government or the State, as a result of a violation of law.

(c) Any tax adopted after January 1, 2010, but prior to the effective date of this act, that was not adopted in compliance with the requirements of this section is void 12 months after the effective date of this act unless the tax is reenacted by the Legislature and signed into law by the Governor in compliance with the requirements of this section.

(d) The State bears the burden of proving by a preponderance of the evidence that a levy, charge, or other exaction is not a tax, that the amount is no more than necessary to cover the reasonable costs of the governmental activity, and that the manner in which those costs are allocated to a payor bear a fair or reasonable relationship to the payor's burdens on, or benefits received from, the governmental activity.

SECTION 3. Section 1 of Article XIII C of the California Constitution is amended to read:

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.

(e) As used in this article, "tax" means any levy, charge, or exaction of any kind imposed by a local government, except the following:

(1) A charge imposed for a specific benefit conferred or privilege granted directly to the payor that is not provided to those not charged, and which does not exceed the reasonable costs to the local government of conferring the benefit or granting the privilege.

(2) A charge imposed for a specific government service or product provided directly to the payor that is not provided to those not charged, and which does not exceed the reasonable costs to the local government of providing the service or product.

(3) A charge imposed for the reasonable regulatory costs to a local government for issuing licenses and permits, performing investigations, inspections, and audits, enforcing agricultural marketing orders, and the administrative enforcement and adjudication thereof.

(4) A charge imposed for entrance to or use of local government property, or the purchase, rental, or lease of local government property.

(5) A fine, penalty, or other monetary charge imposed by the judicial branch of government or a local government, as a result of a violation of law.

(6) A charge imposed as a condition of property development.

(7) Assessments and property-related fees imposed in accordance with the provisions of Article XIII D.

The local government bears the burden of proving by a preponderance of the evidence that a levy, charge, or other exaction is not a tax, that the amount is no more than necessary to cover the reasonable costs of the governmental activity, and that the manner in which those costs are allocated to a payor bear a fair or reasonable relationship to the payor's burdens on, or benefits received from, the governmental activity.

SECTION 4. Conflicting Measures.

In the event that this measure and another measure or measures relating to the legislative or local votes required to enact taxes or fees shall appear on the same statewide election ballot, the provisions of the other measure or measures shall be deemed to be in conflict with this measure. In the event that this measure shall receive a greater number of affirmative votes, the provisions of this measure shall prevail in their entirety, and the provisions of the other measure or measures relating to the legislative or local votes required to enact taxes or fees shall be null and void.

SECTION 5. Severability.

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

PROPOSITION 27

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

This initiative measure amends the California Constitution and repeals sections of the Government Code; therefore, existing provisions proposed to be deleted are printed in ~~strikeout type~~ and new provisions proposed to be added are printed in *italic type* to indicate that they are new.

PROPOSED LAW

SECTION 1. Title.

This Act shall be known and may be cited as the "Financial Accountability in Redistricting Act" or "FAIR Act."

SECTION 2. Findings and Purpose.

The people of the State of California hereby make the following findings and declare their purpose in enacting the FAIR Act is as follows:

(a) Our political leadership has failed us. California is facing an unprecedented economic crisis and we, the people (not the politicians), need to prioritize how we spend our limited funds. We are going broke. Spending unlimited millions of dollars to create multiple new bureaucracies just to decide a political game of Musical Chairs is a waste—pure and simple. Under current law, a group of unelected commissioners, making up to \$1 million a year

**Santa Barbara Municipal Code
Chapter 4.24**

UTILITY SERVICES TAX

Sections:

4.24.010	Definitions.	4.24.110	Penalty.
4.24.020	Telephone Tax.	4.24.120	Actions to Collect.
4.24.030	Electricity Tax.	4.24.130	Failure to Pay Tax - Administrative Remedy.
4.24.040	Gas Tax.	4.24.140	Assessment - Administrative Remedy.
4.24.050	Water Tax.	4.24.150	Records.
4.24.060	Garbage Collection Tax.	4.24.160	Refunds.
4.24.070	Cable Television Tax.	4.24.170	Severability.
4.24.080	Exemptions.	4.24.190	Appropriation and Use of Funds.
4.24.090	Collection of Tax.		
4.24.100	Reporting and Remitting.		

4.24.010 Definitions.

Except where the context otherwise requires, the definitions given in this Section govern the construction of this Chapter.

A. "Person." A domestic or foreign corporation, firm, association, syndicates, joint stock company, partnership, joint venture, club, Massachusetts business or common-law trust, society or individual, and includes a municipal corporation.

B. "City." The City of Santa Barbara.

C. "Telephone corporation", "electrical corporation", "gas corporation", "water corporation" and "cable television corporation." As defined in Sections 234, 218, 222, 241 and 215.5, respectively, of the Public Utilities Code of the State of California. "Electrical corporation" and "water corporation" include any municipality or franchised agency engaged in the selling or supplying of electrical power or water to a service user.

D. "Tax Collector." The City Treasurer.

E. "Service supplier." A person required to collect and remit a tax imposed by this Chapter.

F. "Service user." A person required to pay a tax imposed by this Chapter.

G. "Month." A calendar month. (Ord. 4289, 1984, Ord. 3436 Section 1(part), 1970.)

4.24.020 Telephone Tax.

A. TAX IMPOSED; RATE. There is imposed a tax upon every person in the City, other than a telephone corporation, using intrastate telephone communication services in the City. The tax imposed by this Section shall be at the rate of six percent (6%) of all charges made for such services and shall be paid by the person paying for such services.

B. EXCEPTIONS - COIN AND MOBILE TELEPHONES. As used in this Section, the term "charges" shall not include charges for services paid for by inserting coins in coin-operated telephones except that where such coin-operated telephone service is furnished for a guaranteed amount, the amounts paid under such guarantee plus any fixed monthly or other periodic charge shall be included in the base for computing the amount of tax due; nor shall the term "telephone communication services" include land mobile services or maritime mobile services as defined in Section 2.1 of Title 47 of the Code of Federal Regulations, as such Section existed on January 1, 1969.

C. EXCEPTION - INTRASTATE TELEPHONES. Notwithstanding the provisions of Subsection A of this Section, the tax imposed under this Section shall not be imposed upon any person for using intrastate telephone communication services to the extent that the amounts paid for such services are exempt from or not subject to the tax imposed by Section 4251 of Title 26 of the United States Code, as such Section existed on January 1, 1969, without regard to Subsection (b) thereof. (Ord. 4289, 1984; Ord. 3927, 1977; Ord. 3436 Section 1(part), 1970.)

4.24.030 Electricity Tax.

A. TAX IMPOSED; RATE. There is imposed a tax upon every person in the City using electrical energy in the City. The tax imposed by this Section shall be at the rate of six percent (6%) of the charges made for such energy and shall be paid by the person paying for such energy. "Charges" as used in this Section, include charges for:

1. Metered energy; and

2. Minimum charges for service, including customer charges, service charges, demand charges and annual and monthly charges.

B. EXCEPTION. As used in this Section, the term "using electrical energy", shall not be construed to mean the storage of such energy by a person in a battery owned or possessed by him for use in an automobile or other machinery or device apart from the premises upon which the energy was received; provided, however, that the term shall include the receiving of such energy for the purpose of using it in the charging of batteries. The term does not include electricity used in water pumping by water corporations; nor shall the term include the mere receiving of such energy by an electrical corporation at a point within the City for resale. (Ord. 4289, 1984; Ord. 3927, 1977; Ord. 3436 Section 1(part), 1970.)

4.24.040 Gas Tax.

A. TAX IMPOSED; RATE. There is imposed a tax upon every person in the City using the City gas which is delivered through mains or pipes. The tax imposed by this Section shall be at the rate of six percent (6%) of the charges made for such gas, including minimum charges for service, and shall be paid for by the person paying for such gas.

B. EXCEPTIONS. The term "charges" shall not include charges made for gas which is to be resold and delivered through mains or pipes, charges made for gas sold or used in the generation of electrical energy by a public utility or a governmental agency, and charges made by a gas public utility for gas used or consumed in the conduct of the business of gas public utilities. (Ord. 4289, 1984; Ord. 3927, 1977; Ord. 3436 Section 1(part), 1970.)

4.24.050 Water Tax.

A. TAX IMPOSED; RATE. There is imposed a tax upon every person in the City using water which is delivered through mains or pipes. The tax imposed by this Section shall be at the rate of six percent (6%) of the charges made for such water and shall be paid by the person paying for such water.

B. EXCLUSION. There shall be excluded from the base on which the tax imposed in this Section is computed, charges made for water which is to be resold and delivered through mains or pipes; and charges made by a municipal water department, public utility or a county or municipal water district for water used and consumed by such department, utility or district in the conduct of business of such department, utility or district.

C. EXCLUSION. There shall also be excluded from the tax imposed by this Section 4.24.050 all water service in the City furnished by any water utility district other than the Public Works Department of the City.

D. DEPOSIT OF FUNDS. Effective July 1, 2002, the proceeds of the tax imposed under this Section shall be deposited in the General Fund. (Ord. 5245, 2002; Ord. 4857, 1994; Ord. 4289, 1984; Ord. 3927, 1977; Ord. 3436 Section 1(part), 1970.)

4.24.060 Garbage Collection Tax.

There is imposed a tax upon every person in the City using the service of a garbage, refuse and rubbish collection and disposal contractor or permittee authorized as such by the City, and whether such contractor or permittee be a person, firm, partnership or corporation. The tax imposed by this Section shall be at the rate of six percent (6%) of the charges authorized by Section 7.16.620 of the Santa Barbara Municipal Code, 1967, or, in the event such charges be not so regulated, then upon the charges actually charged at the effective date of the ordinance codified in this Chapter. Trash collectors are exempt from the tax imposed by this Section. (Ord. 4289, 1984; Ord. 3927, 1977; Ord. 3436 Section 1(part), 1970.)

4.24.070 Cable Television Tax.

There is imposed a tax upon every person in the City using cable television service. The tax imposed by this Section shall be at the rate of six percent (6%) of the charges made for such service and shall be paid by the person paying for such service. (Ord. 4289, 1984; Ord. 3927, 1977; Ord. 3436 Section 1(part), 1970.)

4.24.080 Exemptions.

A. CONSUMER. The tax imposed by this Chapter shall not apply to any individual who used telephone, electric, gas, cable television, water services or garbage collection in or upon any premises occupied by such individual; provided the total Adjusted Gross Income of that individual, as used for purposes of the California Personal Income Tax Law, was no more than \$5,330.00 for the most recent completed calendar year, and provided the combined Adjusted Gross Income of all members of the household in which such individual resided was no more than \$7,990.00. The exemption amounts set forth herein shall be adjusted upwards or downwards each January 1 to reflect the percentage change in the annual average of the Consumer Price Index (All Urban Consumers, All Items-Los Angeles-Long Beach-Anaheim) for the twelve months prior to the preceding September 30. The City Administrator shall compute the dollar increase or decrease annually, the result shall be rounded off to the nearest ten dollar (\$10) increment, and this adjustment shall be effective as of January 1 of each year hereafter.

B. **PREREQUISITE: APPLICATION AND APPROVAL.** The exemption granted by this Section shall not eliminate the duty of the service supplier from collecting taxes from such exempt individuals, or the duty of such exempt individuals from paying such taxes to the service supplier; unless an exemption is applied for by the service user and granted in accordance with the provisions of this Section.

C. **APPLICATION.** Any service user exempt from the taxes imposed by this Chapter because of the provisions of Subsection A may file an application with the Tax Collector for an exemption. Such application shall be made upon a form supplied by the Tax Collector; and shall state those facts, declared under oath, which qualify the applicant for an exemption.

D. **GRANTING; NOTICE TO SERVICE SUPPLIERS.** The Tax Collector shall review all such applications, and shall certify as exempt those applicants determined to qualify therefor; and shall notify all service suppliers affected that such exemptions have been approved. For each exemption, the following information shall be transmitted to the service supplier:

1. Name of exempt applicant.
2. Account number shown on utility bill.
3. Address to which exempt service is being supplied.
4. Any other information as may be necessary for the service supplier to remove the exempt service user from its tax billing procedure.

E. **OBLIGATIONS OF SERVICE SUPPLIER.** Upon receipt of such notice, the service supplier shall not be required to continue to bill any further tax imposed by this Chapter from such exempt service user, until further notice by the Tax Collector is given. The service supplier shall eliminate such exempt service user from its tax billing procedure no later than sixty (60) days after receipt of such notice from the Tax Collector.

F. **ANNUAL REVIEW.** All exemptions shall be renewed annually and shall exist, so long as the prerequisite facts supporting the initial qualification for exemption shall continue; provided, however, that the exemption shall automatically terminate with any change in the service address or residence of the exempt individual; further provided such individual may nevertheless apply for a new exemption with each change of address or residence. If an applicant who has been granted an exemption does not file a new application prior to April 15 evidencing continued eligibility under the cost-of-living adjustment for that year as previously computed by the City Administrator, the exemption shall automatically terminate.

G. **EVIDENCE OF CONTINUED ELIGIBILITY.** The Tax Collector shall have the power and right to demand evidence of continued eligibility of a service user for exemption under the provisions of this Section. Such evidence may include, but need not be limited to, copies of business records, letters or statements from the Social Security Administration, copies of income tax returns, and such other evidence concerning the service user or other members of his household as may tend to prove or disprove such eligibility. Failure to provide such evidence as is within the control of a service user to so provide, whether directly by him or by his consent or the consent of a member of his household when such evidence is requested of the service user in writing by the Tax Collector, shall be grounds for the immediate discontinuance of the service user's eligibility for exemption under the provisions of this Section. Evidence provided to the Tax Collector upon request, or voluntarily provided by the service user without request, may not be used against such service user as evidence of violation of the provisions of this Section; such evidence may only be used as grounds for termination of the exemption herein provided.

H. **LOSS OF EXEMPTION; MISDEMEANOR.** Any individual exempt from the tax shall notify the Tax Collector within ten (10) days of any change in fact or circumstance which might disqualify said individual from receiving such exemption. It shall be a misdemeanor for any person to knowingly receive the benefits of the exemptions provided by this Section, when the basis for such exemption either does not exist or ceases to exist.

I. **DUTY OF SERVICE SUPPLIER.** Notwithstanding any of the provisions hereof, any service supplier who determines by any means that a new or non-exempt service user is receiving service through a meter or connection exempt by virtue of an exemption issued to a previous user or exempt user of the same meter or connection, such service supplier shall immediately notify the Tax Collector of such facts; and the Tax Collector shall conduct an investigation to ascertain whether or not the provisions of this Section have been complied with, and where appropriate, order the service supplier to commence collecting the tax from the non-exempt service user.

J. **DENIAL OF APPLICATION; APPEAL.** If the Tax Collector determines that an application for exemption is faulty, or that the applicant has failed to truthfully set forth such facts, application for the exemption shall be denied in writing to the applicant. The applicant shall thereafter have a right to file an amended application for exemption; or to appeal the Tax Collector's decision within a 10-day period after the mailing date of the Tax Collector's rejection. In the case of an appeal, the City Administrator shall review the facts in consultation with the City Attorney, and shall render a final determination on such appeal.

K. **CONSTRUCTION WITH OTHER LAWS.** Nothing in this Chapter shall be construed as imposing a tax upon any person if imposition of such tax upon that person would be in violation of the Constitution of the United States or the Constitution of the State of California. (Ord. 4289, 1984; Ord. 4021, 1979; Ord. 3927, 1977; Ord. 3436 Section 1(part), 1970.)

4.24.090 Collection of Tax.

A. **DUTY TO COLLECT.** Every person receiving payment of charges from a service user shall collect the amount of tax imposed by this Chapter from the service user.

B. **TIME FOR COLLECTION.** The tax shall be collected insofar as practicable at the same time as and along with the collection of charges made in accordance with the regular billing practice of the service supplier.

C. **COMMENCEMENT OF DUTY.** The duty to collect tax from a service user shall commence with the beginning of the first regular billing period applicable to that person which starts on or after the effective date of this Chapter. Where a person receives more than one (1) billing, one (1) or more being for different periods than another, the duty to collect shall arise separately for each billing period. (Ord. 4289, 1984; Ord. 3436, Section 1(part), 1970.)

4.24.100 Reporting and Remitting.

Each service supplier shall on or before the twentieth of each month make a return to the Tax Collector on forms provided by him, stating the amount of taxes billed by the service supplier during the preceding month. At the time the return is filed, the full amount of the tax collected shall be remitted to the Tax Collector. The Tax Collector is authorized to require such further information as he deems necessary to properly determine if the tax here imposed is being levied and collected in accordance with this Chapter. Returns and remittances are due immediately upon cessation of business for any reason. (Ord. 4289, 1984; Ord. 3436, Section 1(part), 1970.)

4.24.110 Penalty.

A. **DELINQUENT TAXES.** Taxes collected from a service user which are not remitted to the Tax Collector on or before the due date provided in this Chapter are delinquent.

B. **AUTOMATIC PENALTY.** Penalties for delinquency in remittance of any tax collected or any deficiency determination, shall attach and be paid by the person required to collect and remit at the rate of fifteen percent (15%) of the total tax collected or imposed herein.

C. **ADDITIONAL PENALTY.** The Tax Collector shall have power to impose additional penalties upon persons required to collect and remit taxes under the provisions of this Chapter for fraud or negligence in reporting or remitting at the rate of fifteen percent (15%) of the amount of the tax collected or as recomputed by the Tax Collector.

D. **PENALTY PART OF TAX DUE.** Every penalty imposed under the provisions of this Section shall become a part of the tax required to be remitted. (Ord. 4289, 1984; Ord. 3436, Section 1(part), 1970.)

4.24.120 Actions to Collect.

Any tax required to be paid by a service user under the provisions of this Chapter shall be deemed a debt owed by the service user to the City. Any such tax collected from a service user which has not been remitted to the Tax Collector shall be deemed a debt owed to the City by the person required to collect and remit. Any tax billed to a service user but not paid to the service supplier shall not be deemed an obligation of the service supplier unless such tax is thereafter paid to the service supplier. Any person owing money to the City under the provisions of this Chapter shall be liable to an action brought in the name of the City for the recovery of such amount. (Ord. 4289, 1984; Ord. 3436 Section 1(part), 1970.)

4.24.130 Failure to Pay Tax - Administrative Remedy.

Whenever the Tax Collector determines that a service user has deliberately withheld the amount of the tax owed by him from the amounts remitted to a service supplier, or that a service user has failed to pay the amount of the tax for a period of two (2) or more billing periods, or whenever the Tax Collector deems it in the best interest of the City, he may relieve the service supplier of the obligation to collect taxes due under this Chapter from certain named service users for specified billing periods. The Tax Collector shall notify the service user that he has assumed responsibility to collect the taxes for the stated periods and demand payment of such taxes. The notice shall be served on the service user by handing it to him personally or by deposit of the notice in the United States mail, postage prepaid thereon, addressed to the service user at the address to which billing was made by the service supplier; or should the service user have changed his address, to his last known address. If a service user fails to remit the tax to the Tax Collector within fifteen (15) days from the date of the service of the notice upon him, which shall be the date of mailing if service is not accomplished in person, a penalty of twenty-five percent (25%) of the amount of the tax set forth in the notice shall be imposed, but not less than five dollars (\$5.00). The penalty shall become part of the tax herein required to be paid. (Ord. 4289, 1984; Ord. 3436, Section 1(part), 1970.)

4.24.140 Assessment - Administrative Remedy.

The Tax Collector may make an assessment for taxes not paid or remitted by a person required to pay or remit. A notice of the assessment, which shall refer briefly to the amount of the taxes and penalties imposed and the time and place when such assessment shall be submitted to the City Council for confirmation or modification, shall be prepared by the Tax Collector. The Tax Collector shall mail a copy of such notice to the person selling the service and to the service user at least ten (10) days prior to the date of hearing and shall post such notices at the City Hall for at least five (5) continuous days prior to the date of the hearing. Any interested party having any objections may appear and be heard at the hearing provided his objection is filed in writing with the Tax Collector prior to the time set for the hearing. At the time fixed for considering the assessment, the City Council shall conduct a hearing and after the hearing may confirm or modify the assessment by motion. (Ord. 4289, 1984; Ord. 3436, Section 1(part), 1970.)

4.24.150 Records.

It shall be the duty of every person required to collect and remit to the City any tax imposed by this Chapter to keep and preserve, for a period of three (3) years, all records as may be necessary to determine the amount of such tax as he may have been liable for the collection of and remittance to the Tax Collector, which records the Tax Collector shall have the right to inspect at all reasonable times. (Ord. 4289, 1984; Ord. 3436, Section 1(part), 1970.)

4.24.160 Refunds.

A. AUTHORIZED. Whenever the amount of any tax has been overpaid or paid more than once or has been erroneously or illegally collected or received by the Tax Collector under this Chapter, it may be refunded as provided in this Section.

B. CLAIM BY PERSON COLLECTING TAXES. A person required to collect and remit taxes imposed under this Chapter may claim a refund or take as credit against taxes collected and remitted the amount overpaid, paid more than once or erroneously or illegally collected or received when it is established, in a manner prescribed by the Tax Collector, that the service user from whom the tax has been collected did not owe the tax; provided, however, that neither the refund nor a credit shall be allowed unless the amount of the tax so collected has either been refunded to the service user or credited to charges subsequently payable by the service user to the person required to collect and remit.

C. EVIDENCE. No refund shall be paid under the provisions of this Section unless the claimant establishes his right thereto by written records showing entitlement thereto. (Ord. 4289, 1984.)

4.24.170 Severability.

If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Chapter or any part hereof is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this Chapter of any part hereof. The City Council declares that it would have passed each section, subsection, paragraph, sentence, clause or phrase hereof, irrespective of the fact that any one (1) or more sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared unconstitutional. (Ord. 4289, 1984; Ord. 3436 Section 1(part), 1970.)

4.24.190 Appropriation and Use of Funds.

Fifty percent (50%) of the revenues imposed and collected under this Chapter shall be appropriated and used for street reconstruction, maintenance and/or repair. (Ord. 4289, 1984; Ord. 3927 Section 2, 1977.)

S225589

IN THE SUPREME COURT
OF THE
STATE OF CALIFORNIA

ROLLAND JACKS and ROVE ENTERPRISES, INC.,

Plaintiffs and Appellants,

v.

CITY OF SANTA BARBARA,

Defendant and Respondent.

On Review from the Court of Appeal
for the Second Appellate District, Division Six, Case No. B253474

After an Appeal from the Superior Court of California,
County of Santa Barbara, Case Number 1383959,
Hon. Thomas P. Anderle

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Rolland Jacks, et al. v. City of Santa Barbara
California Supreme Court Case No.: S225589
Court of Appeal, 2nd Appellate District Case No.: B253474
Santa Barbara County Superior Court Case No.: 1383959

At the time of service, I was over 18 years of age and **not a party to this action**. I am employed in the County of San Francisco, State of California. My business address is 425 Market Street, 26th Floor, San Francisco, CA 94105.

On October 21, 2015, I served true copies of the following document(s) described as:

1. **APPLICATION OF THE LEAGUE OF CALIFORNIA CITIES TO FILE AMICUS CURIAE BRIEF IN SUPPORT OF RESPONDENT CITY OF SANTA BARBARA; AMICUS CURIAE BRIEF**
2. **MOTION FOR JUDICIAL NOTICE IN SUPPORT OF AMICUS CURIAE BRIEF; SUPPORTING MEMORANDUM; SUPPORTING DECLARATION OF ADAM W. HOFMANN**
3. **[PROPOSED] ORDER GRANTING MOTION FOR JUDICIAL NOTICE IN SUPPORT OF AMICUS CURIAE BRIEF**

on the interested parties in this action as follows:


SEE ATTACHED SERVICE LIST

BY UPS: I enclosed said document(s) in an envelope or package provided by UPS and addressed to the persons at the addresses listed in the Service List. I placed the envelope or package for collection and overnight delivery at an office or a regularly utilized drop box of UPS.

BY OVERNIGHT DELIVERY: I enclosed said document(s) in an envelope or package provided by the overnight service carrier and addressed to the persons at the addresses listed in the Service List. I placed the envelope or package for collection and overnight delivery at an office or a regularly utilized drop box of the overnight service carrier or delivered such document(s) to a courier or driver authorized by the overnight service carrier to receive documents.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on October 21, 2015, at San Francisco, California.



Grace M. Mohr

SERVICE LIST

Rolland Jacks, et al. v. City of Santa Barbara
California Supreme Court Case No.: S225589

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<p><u>Attorneys for Defendant and Respondent City of Santa Barbara</u></p> <p>Michael G. Colantuono, Esq. Ryan Thomas Dunn, Esq. Leonard P. Aslanian, Esq. Colantuono, Highsmith & Whatley, PC 300 S. Grand Avenue, Suite 2700 Los Angeles, California 90071-3137 Telephone: (213) 542-5700 Facsimile: (213) 542-5710 Email: mcolantuono@chwlaw.us rdunn@chwlaw.us laslanian@chwlaw.us</p>	<p>Hon. Thomas P. Anderle Santa Barbara County Superior Court 1100 Anacapa Street Santa Barbara, Ca 93121</p>
<p>Clerk of the Court of Appeal Second Appellate District, Division 6 200 East Santa Clara Street Ventura, CA 93001</p>	