Voter Requirements for Local Taxes

Presented to:
Assembly Local Government Committee
Hon. Cecilia M. Aguiar-Curry, Chair
Assembly Revenue and Taxation Committee
Hon. Autumn R. Burke, Chair
Senate Governance and Finance Committee
Hon. Mike McGuire, Chair
Changes to Voter Requirements for Local Government Taxes

March 7, 2017
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Prior to 1978
1978: Proposition 13
1982: Farrell Decision
1986: Proposition 62
1992: Knox Decision
1996: Proposition 218
2010: Proposition 26
2017: Upland Decision

General Taxes

Unclear effect.
No voter requirements.
Simple majority of voters must approve (except for charter cities).
Extends simple majority requirement to charter cities.
Tax initiatives can be approved via special election.

Special Taxes

No voter requirements for taxes or other fees.
No change. Special tax defined as a tax levied for a specific purpose.
No change. Property assessment not subject to voter approval.
Expands the definition of a tax subject to voter approval.
Unclear effect.

Expands special tax definition to include special districts, schools, community colleges, and parcel taxes.
**Upland Decision Background**

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

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

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

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

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

☑ Supreme Court Decision Focused on Election Timing as Required in Article XIII C, Section 2(b)
  - Voter proposed taxes can be approved via a special election.

☑ Both Article XIII C, Section 2(b) and Section 2(d) Reference Local Government Imposed Taxes
  - Section 2(d) establishes the requirement that special taxes be approved by two thirds of the electorate.

☑ Decision Did Not Address Article XIII C, Section 2(d)
  - If “local government” does not include the electorate in section 2(d), local special tax initiatives may not be subject to a two-thirds vote requirement.
Special Taxes Proposed (and Passed) Less Frequently

![Image](image-url)

**2016 Local Measures**

<table>
<thead>
<tr>
<th>General Taxes</th>
<th>Measures Proposed</th>
<th>Measures Passed</th>
<th>Passing Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>City and County</td>
<td>154</td>
<td>129</td>
<td>84%</td>
</tr>
<tr>
<td>Special Taxes</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>City and County</td>
<td>62</td>
<td>30</td>
<td>48</td>
</tr>
<tr>
<td>Special District and Schools</td>
<td>63</td>
<td>39</td>
<td>62</td>
</tr>
</tbody>
</table>

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