

Measure T409

INSTRUCTIONS:

Please carefully read the following description of a ballot measure that was written by a disinterested expert. Feel free to take notes or outline passages as you read.

This measure is quite long and may take as long as 15 minutes to read.

BALLOT MEASURE T409

BACKGROUND

On June 6, 1978, the voters approved Proposition X432, which added Article XIII A to the State Constitution. This constitutional amendment had three major provisions. First, it reduced local property taxes by limiting the property tax rate. Second, it required county assessors to roll back the assessed values of property to what these values were in 1975 and it limited increases in those values in subsequent years. Finally, the measure limited the ability of the state and local agencies to increase other taxes or impose new taxes. These provisions of Proposition X432 are described in more detail below.

1. ***Property Tax Rate Limits.*** Article XIII A limits ad valorem property taxes (that is, taxes based on a property's value) to 1 percent of the property's assessed value. Benefit assessments, which pay for the cost of capital improvements that increase property values (such as streets, lighting, and sewers), or which finance certain services (such as the maintenance and operation of flood control districts), are not subject to this limitation.

Proposition X432 permits local agencies to levy ad valorem property taxes in excess of the 1-percent limit in order to pay off indebtedness, provided the indebtedness was approved by the voters before July 1, 1978. This exception to the 1-percent limit is available for both bonded debt (that is, debt incurred by a local agency through the sale of bonds), and for other types of voter-approved indebtedness. In 1983-84, 51 local agencies levied a total of \$155 million in property taxes to pay off debt that was not incurred through the sale of bonds. Most of this indebtedness represents either a local agency's obligation to make contributions to the pension plans covering its employees, or a local agency's obligation to pay its share of the costs associated with the delivery of water pursuant to State Water Project contracts.

2. ***Limits on Assessed Value.*** For the 1978-79 tax year, Article XIII A required county assessors to set the assessed values of most real property (that is, land and buildings) at a level equal to the property's full cash value for the 1975-76 tax year, plus no more than a 2-percent inflation factor for each subsequent year. (Properties that had changed ownership or had been improved could be assessed at a higher value.) Consequently, the assessed values of properties in 1978-79 could have been as much as 6.12 percent higher than the full cash value of these properties in 1975-76.

Article XIII A also provides that the assessed value of property which is sold or newly constructed on or after March 1, 1975, is to be set at the appraised (or market) value of the property at the time of sale or at the time that the new construction is deemed to have been completed. In the case of ownership changes, transfers of property between spouses, or from parents to minor orphan children, are exempt from reappraisal. In the case of new construction, only that portion of the property which is newly constructed can be reappraised. The remainder of the property retains its existing assessed value.

3. *Limits on New and Increased Taxes.* Article XIII A provides that any new or increased state taxes may be imposed only through legislation enacted by a two-thirds vote of each house of the Legislature.

Article XIII A also provides that local agencies may impose "special taxes" only if these taxes are approved by a two-thirds vote of the agency's voters. A "special tax" is a tax which raises revenue for a specific purpose. Article XIII A does not limit local taxes, other than property taxes, which raise revenue for general purposes. Nevertheless, under state law, counties, special districts, and school districts have very limited authority to impose general taxes. Cities, however, may impose a variety of general taxes through a majority vote of their governing bodies.

Existing state law also contains a variety of provisions relating to fees. Generally, fees may be imposed by state law or local ordinance. In many cases, state law limits the rate of specific state and local fees, and thus the amount of revenue which can be raised by the fees, either by specifically establishing the rate to be charged, or by restricting the charge to the estimated reasonable cost of providing the service.

PROPOSAL

This initiative would (1) eliminate some existing property taxes and benefit assessments by making them subject to the 1-percent tax rate limit, (2) invalidate the inflation adjustments made to assessed values for the three years following 1975-76, and require payment of tax refunds to some taxpayers, (3) revise the procedures for reappraising new construction and property which changes ownership, and (4) limit the ability of the state and local agencies to impose new, or increase existing, taxes and fees.

In several instances the exact meaning of the language contained in this measure is unclear. Where this is the case, we have based our analysis on advice from the Legislative Counsel regarding the probable interpretation of the language by the courts.

The following is a summary of the initiative's provisions:

1. *Further Restrictions on Property Tax Rates.* This measure would limit the sum of all taxes on real property to 1 percent of the property's assessed value. This limit could be exceeded only to pay the cost of retiring bonded debt approved by the voters before July 1, 1978.

This provision would invalidate all of the ad valorem taxes that are currently levied by local agencies to pay for contributions to their employees' pension plans, as well as all other property tax levies imposed for the purpose of paying off voter-approved indebtedness that was not incurred through the sale of bonds. In addition, the initiative apparently would eliminate that portion of a water agency's property tax levy which is used to pay for the operation and maintenance of the State Water Project (as opposed to the portion of the levy used to retire the state bonds which financed the project's construction).

2. *Restrictions on Benefit Assessments.* Under this measure, the 1-percent limit on property tax rates would also apply to benefit assessments, unless the assessment (a) is levied exclusively on land, (b) pays only for the cost of a local capital improvement which directly benefits that land, (c) creates no personal liability for the landowner, and (d) is limited in time and locality. Thus, this measure would invalidate all existing benefit assessments which are used to pay for services or maintenance. Among the assessments that may be invalidated are those that support fire protection, police and paramedic services and mosquito abatement services, routine maintenance of streets, levees or flood control facilities, and operation of street lights.

The measure also provides that the portion of any purported assessment which raises an amount exceeding the cost of the capital improvement for which it is levied would be invalidated on a "prospective" basis (that is, on the effective date of the measure). Any amount collected pursuant to an invalid assessment, plus interest at an annual rate of 13 percent, would have to be refunded to the persons from whom it was collected.

3. *Restrictions on Inflation Adjustments.* This measure would eliminate any inflation adjustments that were made to the 1975-76 full cash value of property for the purpose of determining the property's assessed value for 1978-79. As a result, county assessors would be required to reduce the assessed value of properties that reflect such adjustments. The owners of any property that has its assessed value reduced would be entitled to refunds or credits equal to the amount of the additional property taxes they paid in 1978-79 and subsequent years as a result of these inflation adjustments. The owners would also be entitled to interest on the amount refunded, calculated at an annual rate of 13 percent from the date on which the payment was made. The measure does not specify when these refunds would have to be paid.

4. *Revisions to the Procedures for Reappraisal.* This measure provides that the appraised value of property which changes ownership or is newly constructed could not exceed the sum of:

- (a) The most recent price at which the property was sold, or for property last purchased before the 1976 assessment, the 1975-76 full cash value;
- (b) The direct cost of any new construction;
- (c) Any applicable inflation adjustments.

This provision has two effects. First, by requiring the use of the sales price instead of market value in reappraising newly purchased property, the measure would result in higher appraisals for some

properties and lower appraisals for others. Second, by prohibiting the appraised value of new construction from exceeding the direct cost of construction, the measure generally would result in lower appraisals for those properties where new construction has taken place. Because the initiative does not define the term "direct cost," however, it is not clear how much lower these appraisals would be.

This measure also would remove from the State Constitution certain provisions which were added by Proposition T396 on the June 1984 ballot. The provisions which would be removed exempt from reappraisal for a period of 15 years certain modifications which are needed to comply with local seismic safety ordinances.

The proposition also exempts from reappraisal any property which is transferred by the owner to his or her parents, grandparents, stepparents, uncles, aunts, spouse, stepchildren, siblings, lineal descendants, or the guardian or trustee of any of these persons. This provision of the measure would require a reduction in the assessed value of property that has been transferred to such persons since 1975-76, and would prevent reappraisal of any property transferred to such persons in the future.

5. *Limits on New or Increased Taxes.* This measure provides that on or after August 15, 1983, the Legislature may not impose any new tax, or make changes in any existing tax that would increase the amount of tax paid by any taxpayer, unless it does so through an act approved by a two-thirds vote of each house of the Legislature. Consequently, legislation which increases some taxes and decreases others would require a two-thirds vote in order to take effect, even if on balance the legislation resulted in no net revenue gain. Any measure enacted by the Legislature on or after August 15, 1983, which was not approved by a two-thirds vote would be invalidated on a prospective basis.

This measure also limits the ability of local agencies to impose new taxes or increase existing taxes. It provides that on or after August 15, 1983, a local agency may not impose any new tax, or make changes in any existing tax that would increase the amount of tax paid by any taxpayer, unless two-thirds of the local electorate approved the new tax or tax increase. Any ordinance enacted by a local agency on or after August 15, 1983, which was not approved by two-thirds of the voters would be invalidated on a prospective basis.

Neither the Legislature nor local voters, however, would be permitted to approve any new or increased taxes on real property or taxes that are based on the ownership of real property.

6. *Limits on New or Increased Fees.* This measure defines a "fee" to be a charge imposed on persons or property for either of the following purposes:

- (a) To pay for the direct costs of services provided to, or benefits conferred upon, the person or property subject to the charge.
- (b) To pay for the direct cost of a regulatory program under which the person or property subject to the charge is regulated.

All fees charged by any state or local agency (including municipal utilities) would be subject to the following restrictions:

- (a) Fees could not produce more revenue than an amount equal to the direct cost of the service or regulatory program for which the fee is charged. The term "direct cost" is not defined in the proposition. The measure, however, prohibits the use of fee revenues to pay pension liabilities.
- (b) On or after August 15, 1983, no new fee could be imposed unless the fee was approved by a two-thirds vote of each house of the Legislature (state fees) or by a two-thirds vote of local voters (local fees).
- (c) On or after August 15, 1983, an existing fee could not be increased by a percentage greater than the percentage increase in the U.S. Consumer Price Index during the past 12 months unless the increase was approved by a two-thirds vote of each house of the Legislature (state fees) or a two-thirds vote of local voters (local fees).

The measure provides that the portion of any fee which produces revenue exceeding the direct cost of the service or regulatory program for which the fee is charged constitutes a tax. If that tax was not validly imposed—that is, imposed by a two-thirds vote of the Legislature (state fees) or a two-thirds vote of local voters (local fees) the portion of the fee constituting a tax would be invalidated on a prospective basis. The amount of any revenue collected after the effective date of this measure as a result of an invalid fee, plus interest at an annual rate of 13 percent would have to be refunded to the persons from whom it was collected.

These provisions of the measure would require a reduction in the level of some existing fees that yield more revenues than the direct program costs. Moreover, because the measure specifically prohibits the use of fee revenue to pay pension liabilities, many local agencies would be unable to recover from fee revenues the full cost of providing specific services.



STOP!

Please go to the online survey, enter the 4-character code for this ballot measure (printed at the top and bottom of this page) and answer the survey questions.