

Parcel Taxes

Two-Thirds Vote Threshold Guards Against Discriminatory Taxation

In 1978, California voters approved the landmark initiative, Proposition 13. Although Proposition 13's primary focus was to reduce and stabilize out-of-control property taxes for homeowners, it also prohibited school districts from raising property taxes based upon property value (for example, ad valorem taxes). Earlier, the California Supreme Court's 1971 decision in *Serrano v. Priest* wrote local school boards and voters out of school finance decisions and placed the state Legislature firmly in control of school appropriations. Thus, when local school communities would like to financially supplement their schools' basic operations, the parcel tax becomes their stand-alone option.

A parcel tax is a levy usually based on either a flat per-parcel charge or a charge per square foot of parcel size or improvement. A parcel tax cannot be based on value or use. In 2019, parcel and property tax legislation reared its head in three notable forms.

- First, the City of Los Angeles attempted to advance a measure that would have assessed a \$0.16 per square foot of interior space tax on residential and commercial properties. The measure was rejected.
- Second, SCA 5 was offered in an attempt to lower the voter threshold from two-thirds to 55% to ease the burden of passing a school parcel tax. This also failed.
- In that same vein, the third instance of property tax legislation making an appearance in 2019 was ACA 1. ACA 1 unsuccessfully proposed that voters decide whether property tax increases for affordable housing and infrastructure could be approved by just a 55% vote rather than the two-thirds threshold.

These failed attempts to institute and augment parcel and property taxes seem to portend that 2020 will be another year where government employee unions and social advocates endeavor to fund their agendas by assessing taxes upon property owners.

PARCEL TAXES MUST PASS BY A TWO-THIRDS THRESHOLD

Proposition 13 requires approval by two-thirds of voters for any tax levied by local governments and designated for a special purpose, like schools, parks or roads, and a majority vote for general taxes. Parcel taxes generally are levied by a local government for a specific purpose and therefore require approval of two-thirds of voters.

Parcel taxes have passed in more than half of the elections held since 1983, but the districts that passed them represent less than 10% of the student population of California. According to Michael Coleman, creator of the online *California Local Government Finance Almanac* and principal fiscal policy adviser to the League of California Cities, voters historically have passed 56% of parcel taxes for school funding. In June 2018, 10 out of 11 parcel taxes were approved, a much higher rate than average. Given the historical data, as well as recent voter approval, the push to lower the voter threshold is unwarranted.

EFFORTS TO REDUCE THE TAX ENACTMENT THRESHOLD TO 55%

- **SCA 5.** Most recently, SCA 5 aimed to amend the California Constitution and reduce the voter approval threshold from two-thirds to 55% for parcel taxes proposed by school districts and community college districts to fund education. The proposed legislation did not move out of the Senate.

The business community opposed SCA 5 and the California Chamber of Commerce tagged it as a job killer, as it would have facilitated a discriminatory parcel tax directed at commercial and industrial properties within local jurisdictions. This sort of property discrimination was on full display in Los Angeles last year. Specifically, Los Angeles' proposed measure would have imposed a tax of \$0.16 per square foot of interior square footage on residential and commercial property for the next 12 years. This proposal would have had a disproportionate effect

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on commercial property because those properties generally have larger square footage than a private residence.

For instance, the owner of a 2,000 square-foot house would have paid \$320 a year while a 25,000 square-foot warehouse owner would have paid \$4,000. Los Angeles voters spoke loud and clear with the measure winning only 45.68% of the vote and 54.32% voting against it. This margin of loss was more than 20 percentage points below the two-thirds majority the parcel tax measure needed for passage and the measure would have failed even if the threshold was 55%.

- **ACA 1.** In 2019, ACA 1 was another unsuccessful bid aimed at reducing the voter threshold for tax enactments from two-thirds to 55%. Rather than addressing parcel taxes for school funding, ACA 1 focused on increasing property taxes to fund affordable housing and infrastructure. ACA 1 fell short of the votes needed to pass the Assembly.

Although ACA 1 was intended to address affordable housing, it would have increased housing costs for millions of Californians. This measure provided increased tax authority for every government agency in California—not just cities and counties, but thousands of potentially overlapping special districts. ACA 1's consequences would have been an uncoordinated and ill-advised layering of new taxes from multiple special districts levied on a single taxpayer. A recent report from the California

Association of Realtors concluded that only 30% of California households could afford to buy an existing, median-priced home. ACA 1 would have reduced that percentage even further.

ACA 1 also sought to amend Proposition 13 by lowering the voter threshold for long-term indebtedness by increasing ad valorem property taxes. These debt obligations backed by an increased property tax often are in place for as long as 30 years. Obligating taxpayers to an increased tax rate for such a long period should require a much stronger consensus by voters. For this reason, the two-thirds voter threshold for general obligation bonds has been in place for well over a century.

CALCHAMBER POSITION

The CalChamber is sensitive to the financial challenges facing many local governments and school districts. However, permitting a lower vote threshold for parcel taxes would make it easier for local governments to impose targeted, discriminatory taxes against businesses. The current two-thirds vote requirement for parcel taxes provides a mechanism by which voters still can approve tax increases while protecting the interests of a small minority of taxpayers. Any change in the vote threshold for parcel taxes must be considered only in the context of providing continuing protections against discriminatory taxation.



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