

Measure K351

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 K351

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, homeowners 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 Practices. 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 S404--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.

Figure 1
Existing Assessments Exempt from the Measures Requirements
<ul style="list-style-type: none"> • Assessments previously approved by voters—or by all property owners at the time assessment is made. • Assessments where all the funds are used to repay bond obligations. • Assessments where all the funds are used to pay for sidewalks, streets, sewers, water, flood control, drainage systems, or “vector control” (such as mosquito control).

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.



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