

Date of Hearing: April 19, 2017

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT

Cecilia Aguiar-Curry, Chair

AB 1333 (Dababneh) – As Introduced February 17, 2017

SUBJECT: Political Reform Act of 1974: local government agency notices.

SUMMARY: Requires local government agencies that have an Internet web site to prominently post on that site a notice of any upcoming election in which the voters will vote on a tax measure or proposed bond issuance of the agency, as specified. Specifically, **this bill:**

- 1) Requires every local government agency, county, city, district and school district, with an Internet Web site to prominently post on that site a notice of any upcoming election in which the voters will vote on a tax measure or proposed bond issuance of the local government agency.
- 2) Requires the notice to be posted on the local government agency's Internet Web site within seven days of either the governing body of the agency voting to place the tax measure or proposed bond issuance on the ballot or the tax measure or proposed bond issuance qualifying to be placed on the ballot as an initiative measure.
- 3) Requires the notice to be posted on the homepage of the agency's Internet Web site, unless a clearly labeled direct link to the notice is placed on the homepage.
- 4) Requires the notice to include the date of the election at which the tax measure or proposed bond issuance will be voted on and a brief common language description of the tax measure or proposed bond issuance.
- 5) Requires every local government agency that publishes an electronic newsletter to include the notice required in 1), above, in the electronic newsletter.
- 6) Makes findings and declarations that this bill furthers the purposes of the Political Reform Act of 1974.
- 7) States that no reimbursement is required for certain costs that may be incurred by a local agency or school district because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction. However, if the Commission on State Mandates determines this act contains other costs mandated by the state, reimbursement to local agencies and school districts for costs shall be made pursuant to current law governing state-mandated local costs.

FISCAL EFFECT: This bill is keyed fiscal and contains a state mandated local program.

COMMENTS:

- 1) **Existing Law.** Existing law authorizes local agencies to adopt an ordinance to place a tax or bond measure before the voters to utilize a number of financial tools. To adopt an ordinance, local agencies must comply with the Ralph M. Brown Act, which includes public notification

and hearing requirements. A local agency must post an agenda at least 72 hours prior to its meeting.

For example, to place a parcel tax measure on the ballot, a local agency must adopt a resolution, which includes the type of tax and rate to be levied, the method of collection, and the date of the election. Additionally, current law requires local agencies to publish specific information 15 days after passing an ordinance. Special taxes, such as parcel taxes, are subject to additional accountability [SB 165 (Alarcón), Chapter 535, Statutes of 2000]. Current law requires local agencies to: a) issue a statement indicating the specific purpose of the tax and a requirement that the proceeds be used only for that purpose; b) create an account in which to deposit proceeds; and, c) issue an annual report that includes the amount of funds collected and expended, along with the status of any project required or authorized by the tax measure.

Existing law requires an elections official, whenever any local county, city, or district ordinance is submitted to the voters of the local jurisdiction at any election, to print and make a copy of the local ordinance available to any voter upon request. The Elections and Redistricting Committee analysis of this bill notes, if a local government agency is holding an election it is common for the corresponding election department for that local jurisdiction to post information about the election on its Internet web site.

- 2) **Bill Summary.** This bill requires local government agencies that have an Internet website to prominently post on that site a notice of any upcoming election in which the voters will vote on a tax measure or proposed bond issuance. This bill requires local government agencies to comply with the posting requirements within seven days of either the governing body adopting an ordinance to place a tax or bond measure on the ballot or the tax or bond measure qualifying as an initiative measure. Additionally, the notice must be posted on the homepage of the local agency's website, unless there is a clearly labeled direct link to the notice. This bill requires that the notice includes the date of the election and a brief common language description of the tax or bond measure. Under this bill, local government agencies that publish an electronic newsletter would also need to include notice of upcoming elections for a tax measure or proposed bond issuance. This bill is sponsored by the California Association of Realtors.
- 3) **Author's Statement.** According to the author, "AB 1333 will provide property owners with more advance notice of upcoming tax levies or bond measures that will appear on local election ballots."
- 4) **Policy Considerations.** The Committee may wish to consider the following:
 - a) **Existing Public Information.** Current law requires the local agency to go through several public steps before and after they place a tax or bond measure on the ballot. The public, including non-resident property owners, have access to all of this information. Additionally, existing law authorizes any person to request that a legislative body mail a copy of an agenda and all documents in an agenda packet. This provision applies to cities, counties, districts, and other public agencies and authorizes the local agencies to charge a fee to provide agendas. Opposition, a coalition including California Professional Firefighters, California State Association of Counties, League of California Cities, California Special District Association, Rural County Representatives of California and Urban Counties of California, argue that singling out specific tax or bond

issuance and a requirement that local agencies post them on the homepage is duplicative and unnecessary.

- b) **Timeframe for Notification.** This bill requires the notice to be posted on a local agency's website within seven days of the governing body voting to place the tax or bond measure on the ballot or the proposed tax or bond measure qualifying as an initiative measure. A coalition of opposition argues that the timeframe is restrictive and unnecessary and does not take into consideration the extensive voter material deadlines provided by elections officials.
- c) **Newsletter.** A coalition of opposition argues that this is an unprecedented mandate that represents a great overreach and that it is unclear which specific newsletters this requirement would be applied to since many local agencies have multiple newsletters by various departments, elected officers or individual supervisors. The Committee may wish to consider the necessity of this requirement in light of information provided by existing law and the website notice provided by this bill.
- d) **Wrong Direction?** General taxes require a majority vote and special taxes require a two-thirds vote for passage. There have been several legislative attempts to lower the two-thirds voter threshold for general obligation bonds and special taxes to 55% for counties, cities, special districts, and school districts. The Committee may wish to consider if this bill goes against the trend of attempting to make it easier for local agencies to impose a tax or bond.

According to the California City Finance website, over 3,500 local revenue measures were placed on the ballot before voters concerning school, city, county, or special district taxes or bonds. Among the 689 non-school special tax and bond measures, the most common were designed for police, fire, or emergency medical services. Over half of the failing special tax or bond measures garnered more than 55% of yes votes.

The Committee may wish to consider how to strike the right balance between transparency and ensuring that this bill does not create additional barriers for cash strapped local agencies to provide necessary services, and discourage local agencies from using parcel taxes as a viable financing tool.

- 5) **Related Legislation.** AB 2109 (Daly), Chapter 781, Statutes of 2014, required the State Controller to report annually on the imposition of each locally assessed parcel tax, and required each county, city, and special district to provide any information required by the Controller in order to complete the report. AB 2476 (Daly) requires a local agency, city, county, special district, or school district to provide specified notice of a new parcel tax to non-resident parcel owners. AB 237 (Daly) of 2015, which was held on suspense in the Assembly Appropriations Committee, was substantially similar to AB 2476. AB 448 (Daly), pending in this Committee, would require a local agency to provide notice of a new parcel tax to non-resident property owners pursuant to existing law, within thirty days of the certification of the election approving the new parcel tax.
- 6) **Political Reform Act of 1974.** California voters passed an initiative, Proposition 9, in 1974 that created the FPPC and codified significant restrictions and prohibitions on candidates, officeholders and lobbyists. That initiative is commonly known as the PRA. Amendments to

the PRA that are not submitted to the voters, such as those contained in this bill, must further the purposes of the initiative and require a two-thirds vote of both houses of the Legislature.

- 7) **Arguments in Support.** According to the California Association of Realtors, "This will allow property owners to learn of any upcoming tax or bond vote soon after the matter is placed on the ballot by the governing body of the local agency. Currently, property owners are required to pay the parcel taxes and for the bonds approved by the voters of a local jurisdiction. If a property owner is a resident of the local jurisdiction that is seeking to enact a parcel tax or issue bonds, that property owner doesn't learn of the proposed parcel tax until they receive their ballot pamphlets weeks before an election. Non-resident property owners – who own a parcel or parcels within a local jurisdiction but reside elsewhere – do not receive any notice whatsoever of a pending parcel tax or bond vote. While a parcel tax on any one single family residential parcel may be relatively little, the same tax applied to a multi-family building can be extremely costly...Property owners deserve to know as soon as possible whether they may be facing such a tax bill so that they can pay their finances accordingly."

- 8) **Arguments in Opposition.** A coalition of opposition states, "This measure overrides local control of resources, creates duplicative requirement, and would establish different standards for tax measure or proposed bonds...Furthermore, this dilutes the ability of local agencies to communicate truly time sensitive and critical information by cluttering the homepage. Elections officials provide significant resources and outreach to the voters on all issues before them on the ballot and we do not believe it is necessary to require this short timeframe for an election that could be months away. It also does not take into account the fact an approved tax measure may not appear on the next ballot going before voters for an already scheduled election."

- 9) **Double Referral.** This bill was heard by the Elections Committee on April 5, 2017, where it passed with a 7-0 vote.

REGISTERED SUPPORT / OPPOSITION:

Support

California Association of Realtors
 [SPONSOR]
 California Apartment Association
 California Taxpayers Association
 Howard Jarvis Taxpayers Association

Opposition

California School Boards Association
 California Special Districts Association
 California State Association of Counties
 California Professional Firefighters
 League of California Cities
 Rural County Representatives of California
 Urban Counties of California

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