

Date of Hearing: April 20, 2016

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT

Susan Talamantes Eggman, Chair

AB 2476 (Daly) – As Introduced February 19, 2016

SUBJECT: Local governments: parcel taxes: notice.

SUMMARY: Requires local agencies to provide specified notice to property owners before the adoption of any new parcel tax. Specifically, **this bill:**

- 1) Requires a local agency, within one week following a legislative body's vote to place a proposed parcel tax on the ballot, to provide specified notice to all property owners affected by the tax.
- 2) Defines the following terms:
 - a) "Local agency" to mean "a city, county, special district, or school district authorized to impose a parcel tax;" and,
 - b) "Parcel tax" to mean "a tax levied by a local agency upon any parcel of property identified using the assessor's parcel number system or upon any person as an incident of property ownership, pursuant to the California Constitution (Section 4 of Article XII A), that is collected via the annual property tax bill."
- 3) Requires the notice to include, but is not limited to, the following information:
 - a) The amount or rate of the proposed parcel tax in sufficient detail to allow each property owner to calculate the amount of the tax to be levied against the owner's property;
 - b) The method and frequency for collecting the proposed parcel tax, and the duration of time the parcel tax will be imposed;
 - c) The date that the proposed parcel tax will be voted on; and,
 - d) The telephone number and address of an individual, office, or organization that interested persons may contact to receive additional information about the proposed parcel tax.
- 4) Requires the notice to be mailed to all property owners, proposed to be subject to the new parcel tax, to those persons whose names and addresses appear on the last equalized county assessment roll or the State Board of Equalization assessment roll.
- 5) Requires the notice to be accomplished through mailing, postage prepaid in the United States mail and to be deemed given when deposited.
- 6) Requires the notice to be in at least 10-point type, and to be in one of the following forms:
 - a) An envelope or mailing, which includes the name of the local agency and the return address of the sender on the cover; or,

- b) A postcard, which includes the name of the local agency and the return address of the sender on the front, and includes information in a prescribed format, as specified.
- 7) Authorizes the local agency to recover the reasonable costs of the notice from the proceeds of the parcel tax. Prohibits the recovered costs from exceeding the reasonable costs of preparing and mailing the notice.
- 8) Provides that no reimbursement is required by this bill, pursuant to the California Constitution, because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this bill, pursuant to current law governing state-mandated local costs.
- 9) Requires, if a parcel tax is not approved by the voters and the Commission on State Mandates determines that this bill contains costs mandated by the state, reimbursement to local agencies and school districts for those costs be made, pursuant to current laws governing state-mandated local costs.

EXISTING LAW:

- 1) Authorizes cities, counties, and special districts to impose a special tax for specified purposes with the approval of two-thirds of the voters.
- 2) Authorizes school districts to impose qualified special taxes, in accordance with specified procedures, including the approval of two-thirds of the voters in the district.
- 3) Authorizes a parcel tax to fund a variety of local government services subject to approval of two-thirds of the voters.
- 4) Restricts parcel tax revenue to only fund the specified purpose and services that voters approved.

FISCAL EFFECT: This bill is keyed fiscal.

COMMENTS:

- 1) **Parcel Taxes.** California Constitution Article XIII, Section A, allows cities, counties, and special districts, by a two-thirds vote of the qualified electors in that jurisdiction, to impose special taxes, except ad valorem taxes on real property or a transaction tax or sales tax on the sale of real property within that city, county or special district. A parcel tax is a particular type of excise tax that is based on either a flat per-parcel rate or a rate that varies depending upon use, size, and/or number of units on each parcel. Proposition 13 (1978) contained a 1% limit on ad valorem property tax; therefore, a parcel tax based upon the value of property would constitute a violation of Proposition 13. The California Constitution specifies that only two types of taxes may be imposed upon a parcel of property: first, an ad valorem property tax imposed, pursuant to Article VIII and Article XIII A, and second, a special tax receiving two-thirds voter approval, pursuant to Section 4 of Article XIII A. A parcel tax must be adopted as a special tax that is not based on the property's value.

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. To adopt an ordinance, local agencies must comply with the Ralph M. Brown Act, which includes public notification and hearing requirements. For example, a local agency must post an agenda at least 72 hours prior to its meeting. Additionally, current law requires cities and counties 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.

After the local agency has voted to place a parcel tax measure on the ballot, the election must be held on "established election dates," which means March, April, or November of an even-numbered year, or March, June, or November in an odd-numbered year. A parcel tax measure levied by a local agency requires approval by two-thirds of the *qualified electors*. The Court has interpreted the phrase "qualified electors of such district" to mean the *registered voters* voting in the election concerning the proposed tax. [*Neilson v. City of California City* (2005) 133 Cal. App.4th 1296, 1312.] Non-resident property owners that are not registered voters are not included among the voters voting on a proposed parcel tax. On the other hand, voters who do not own real property, but are registered within the district's boundaries, like renters or tenants, are able to vote on a parcel tax even though they may not be paying the tax, except as passed through in rent.

- 2) **Bill Summary.** Under this bill, within one week following a local agency's vote to place a proposed parcel tax on the ballot, that city, county, special district, or school district would be required to provide specified notice to each affected parcel owner. Local agencies would be required to provide the notification in one of two forms defined in the bill. This bill outlines the specific information about the parcel tax to be included in the notice and authorizes the local agency to recover reasonable costs of the notice from the proceeds of the parcel tax should it be enacted by the voters. This bill is sponsored by the California Realtors Association.
- 3) **Author's Statement.** According to the author, "Currently, property owners are required to pay parcel taxes 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, that property owner will receive a voter pamphlet prior to the election. Non-resident property owners – who own a parcel or parcels within a local jurisdiction but reside elsewhere – receive no notice of a pending parcel tax vote. AB 2476 seeks to provide a measure of fairness by establishing a process for notifying the non-resident property owners.

"While the 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. One East Bay city has a parcel tax of \$96 for single-family residential parcels and \$72 per multi-family residential parcel. If a building has, for example, 100 multi-family units that translates to a parcel tax of over seven thousand dollars. Property owners deserve to know whether they may be facing such a tax."

- 4) **Previous Legislation.** The author has introduced several parcel tax measures. AB 237 (Daly) of 2015, which was held on suspense in the Assembly Appropriations Committee, was nearly identical to this bill. AB 892 (Daly) of 2013, which was held on suspense in the Assembly Appropriations Committee, would have required the Board of Equalization to report annually to the Governor on the imposition of each locally assessed parcel tax. Most recently, 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.
- 5) **Policy Considerations.** The Committee may wish to consider the following:
 - a) **Favoring Property Owners.** This bill only requires specified notification to be sent to the owner of each parcel affected by the tax. Opposition argues that this bill treats qualified voters who are property owners more favorably by providing them with an informational notice beyond what non-property owner voters would receive; therefore, the Committee may wish to consider if tenants and property owners voting on a parcel tax measure should be afforded the same notification and information.
 - b) **Existing Public Information.** Current law requires the local agency to go through several public steps before and after they place a parcel tax on the ballot. The public, including non-resident property owners, have access to all of this information. Opposition argues that requiring additional notice to be given to property owners is redundant and expensive.
 - c) **Timeframe for Notification.** This bill requires a local agency to provide specified notification to parcel owners within one week following the local agency's vote to place the proposed parcel tax on the ballot. Opposition argues providing local agencies only one week to gather the necessary information from their county, process it, and mail the notices to all property owners is an unreasonable timeframe.
 - d) **Other Parcel Tax Bills.** Parcel taxes require a two-thirds vote of registered voters for passage. There have been several legislative attempts to lower the two-thirds voter threshold 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 parcel tax. Only 45% of the 396 measures placed on the ballot from 2002 through November 2013 were approved. Since this type of tax already requires such a high voter threshold, the Committee may wish to consider if the additional requirements in this bill will provide yet another barrier for cash strapped local agencies to provide necessary services, and discourage local agencies from using parcel taxes as a viable financing tool.
- 6) **Arguments in Support.** The California Association of Realtors argue, "Property owners may want to mount a campaign in opposition to the proposed parcel tax but not receiving timely notice of a proposed tax precludes any such action on their part. [This bill] will alert property owners as to any upcoming parcel tax ballot election and put them on notice as to the amount of any parcel tax that they may have to pay."

- 7) **Arguments in Opposition.** The California Special Districts Association argues, "AB 2476 would impose additional burdens and expense on local agencies contemplating a parcel tax, while providing very limited additional benefit to their constituents." The California School Boards Association argues, "Governing board decisions regarding parcel taxes are already required to take place in open and publicly-noticed meeting in which interested parties may participate. This bill would divert resources away from the core mission of local agencies – in our case, the education of children – to provide a duplicative notice of questionable value."

REGISTERED SUPPORT / OPPOSITION:**Support**

California Association of Realtors [SPONSOR]
California Apartment Association
California Chamber of Commerce
California Manufacturers & Technology Association
California Taxpayers Association
Howard Jarvis Taxpayers Association
Western Manufactured Housing Communities Association

Opposition

California Central Valley Flood Control Association
California School Boards Association
California Special Districts Association

Analysis Prepared by: Misa Lennox / L. GOV. / (916) 319-3958