

How to Defeat Local Parcel Taxes

HOWARD JARVIS TAXPAYERS ASSOCIATION

BACKGROUND

With limited exceptions, Proposition 13 prohibited local governments from increasing property tax rates in excess of 1% of the “full cash value” of a parcel. As a result, local governments cannot increase property tax rates to pay for *operating* expenses such as the salaries of personnel.

Within a few years after the passage of Proposition 13 in 1978, some local governments began imposing a new species of property tax that was *not* based on the assessed value of a parcel. The tax amount imposed per parcel was generally the *same* and was imposed *without regard* to parcel value. Structuring a tax in this manner enabled local governments to get around the property tax rate prohibitions of Proposition 13 and impose additional property taxes for operating expenses. These taxes have become known as *parcel taxes*.

Most parcel taxes generally impose the same fixed amount per parcel (e.g., \$250 per parcel) while some parcel taxes are based on other factors such as the size of a parcel or the size of the improvements on a

parcel. Some parcel tax measures include provisions for annual increases in the parcel tax amount such as for inflation. Parcel taxes are usually imposed for a shorter period of time than property tax increases to repay local bonds which can last for decades.

Unlike with local bonds, parcel tax proceeds can be spent on *operating* expenses such as the salaries of personnel. Parcel tax proceeds are typically used to fund local government services and programs. Various local government agencies are authorized under the law to impose a parcel tax, including cities, counties, special districts, and school districts.

It is not uncommon for homeowners to have parcel taxes imposed upon their property by *several* local government agencies. Some local government agencies have even imposed *more than one* parcel tax upon property within their jurisdiction.

Parcel taxes are subject to *two-thirds* voter approval pursuant to taxpayer protection initiatives approved by California voters over the years. Proposition 39, which passed in 2000 and lowered the voter approval requirement for local education bonds from a two-thirds vote to a 55% vote, does *not* apply to parcel taxes.

Parcel taxes are legally distinct from similar types of levies on property such as special assessments which are based on a special benefit conferred on the parcel being assessed. There is generally no requirement that a parcel tax be based on any benefit received by either the property owner or the parcel being taxed. Thus, property owners must pay a parcel tax even if they will not directly benefit from any of the programs or services that a parcel tax would fund.

Parcel taxes are similar to “Mello-Roos” taxes on property. Mello-Roos taxes are often used to help finance public facilities and/or services in connection with development projects. Mello-Roos taxes are added to the property tax bill with disclosure of the tax obligation given to prospective home buyers.

Parcel taxes appear on the property tax bill that property owners receive each year. They are usually itemized on the long list of fixed

charges that appear on the property tax bill. Failure to pay a parcel tax generally results in the same penalties as the failure to pay the basic 1% property tax under Proposition 13. A homeowner could eventually lose their home if they fail to pay a parcel tax!

THE PROBLEM

Homeowners have been hit with a significant increase in the number of parcel taxes by local government agencies over the past few years. Not only has the *number* of parcel taxes increased, but the *amounts* associated with those parcel taxes have also increased. The *cumulative* impact of all these parcel taxes has led to many homeowners facing *hundreds of dollars* per year in higher property taxes *on top of* their basic 1% property tax under Proposition 13 *and* any higher property taxes imposed as a result of locally approved bonds, including bonds approved as a result of the lower passing standard under Proposition 39.

All of the various “add-ons” to the property tax bill a homeowner receives each year, including from parcel taxes, have the effect of eroding the property tax relief provided by Proposition 13. The property tax relief under Proposition 13 can be effectively *offset* by increases in *other* taxes, including from parcel taxes. For example, a 2003 article in the *Contra Costa Times* noted the case of a homeowner whose annual school parcel tax alone (about \$1,000) was nearly *twice* as much as the homeowner’s basic 1% property tax under Proposition 13.

There are also serious equity concerns for homeowners with respect to the imposition of parcel taxes. Parcel taxes are *very regressive*, especially for homeowners whose assessed value is protected by Proposition 13. With a parcel tax, homeowners generally pay the same amount per parcel without regard to the value or use of the parcel. Thus, a homeowner living in a modest home can pay the same parcel tax amount as someone who lives in an expensive mansion, or the owner of a huge office building worth tens of millions of dollars.

Since only property owners generally pay a parcel tax, there is also the question of singling out property owners to pay for programs and

services that benefit the community at large. Parcel taxes typically fund programs and services for the general benefit of the community at large, such as for public education or public safety. In some instances, *nonresidents* of a local jurisdiction will significantly benefit from the programs and services financed through a parcel tax, but would *not* have to bear the financial burden of paying for those services and programs.

Not only does a parcel tax disproportionately burden property owners, but such taxes are *especially unfair to homeowners* (single-family residential parcels). Since the amount of a parcel tax is generally the same for each parcel, and since in most local jurisdictions single-family residential parcels constitute the bulk of parcels within the jurisdiction (often more than 80% of the taxable parcels), the *vast majority* of the tax burden (frequently more than 80%) will disproportionately fall on *single-family residential* parcels.

As an example, according to 2003-04 data from the Santa Clara County Assessor, 88% of the parcels in Santa Clara County are single-family residential, while only 8% of the parcels are classified as “non-residential” (e.g., commercial). A flat parcel tax on each taxable parcel within the county would put nearly 90% of the tax burden on single-family residential parcels while less than 10% of the tax burden would fall on non-residential parcels. Note that it is not uncommon for many members of the *business* community to *support* flat parcel tax measures.

THE CHALLENGE

In order to stop the deluge of parcel taxes being imposed by local governments, taxpayers must defend themselves and take a *more active role* in opposing these taxes when they appear on the ballot in their local community.

Opposing and defeating a parcel tax is often not easy, even though a two-thirds vote is required to pass the tax. First of all, the tax proponents will be well organized and will usually have extensive financial and manpower resources at their disposal. Large campaign contribu-

tions frequently come from special interest groups that have a vested financial interest in passing a parcel tax, such as local public employee unions. Many in the local business community are also frequently supportive of parcel taxes, especially flat parcel taxes where each parcel pays the same amount without regard to value or land use.

Local governments also frequently hire expensive consultants (at taxpayer expense) to tell them the best way to pass a parcel tax. These consultants often advise local officials *not* to publicize the parcel tax election to the entire community, but to target only their supporters. This means running a stealth election, communicating only with known tax supporters.

It is a frequent tactic used by local governments to schedule low turnout special elections for parcel tax measures, even though such elections are very expensive, in an effort to sneak through a parcel tax. For example, a majority of the local school parcel tax elections over the past few years have been low turnout special elections.

Since it is illegal for local officials to use public resources (including public funds) to urge a vote for or against a political issue, consultants frequently counsel parcel tax supporters on the best way to wage “information” campaigns. This often means putting up signs or sending out material stating all the “good things” a parcel tax will do, but stopping just short of telling people how to vote.

Parcel tax supporters also like to frequently engage in scare tactics to enhance their chances of passing a tax measure. Tax supporters attempt to “scare” voters into supporting a tax increase. Such scare tactics are frequently observed with parcel tax measures associated with public education, health, and public safety. Taxpayers should neither tolerate nor be intimidated by such scare tactics.

When addressing the public, parcel tax backers are frequently encouraged to put the annual cost in simple, friendly sounding terms that usually begin with “it’s only.” “It’s only a few cents a day,” or “it’s only a few dollars per month.” Officials try to make it sound like the coming property tax increase is trivial and that anyone who is opposed must be a cheapskate.

Newspapers can be another problem for taxpayers. While editors at a few papers may be sympathetic to the taxpayers' cause, the vast majority of newspapers are almost universally hostile and will support most parcel tax increases proposed by local governments.

It is *very important* for taxpayers to prevent local parcel taxes from being *initially* imposed. Although most parcel taxes are imposed for a fixed period of time, statistics reveal that the vast majority of parcel taxes initially approved by voters are subsequently placed on the ballot by the local government in order to extend the tax. In many of these cases, the tax amount is *increased* in addition to being extended.

Thus, most parcel taxes that are initially approved effectively become *permanent*, and taxpayers should be very wary of claims made by tax proponents that a tax is a "temporary solution" to a funding "problem." Taxpayers must expect any "temporary" parcel tax that is approved *will* be submitted for extension at some point in the future.

TAKE ACTION!

While the deck may be stacked against taxpayers, should taxpayers give up? *Absolutely not!* Local parcel taxes *can* be defeated *if* opponents are willing to work, but it will take hard work.

MONITOR LOCAL PARCEL TAXES

The first step is to monitor news from local government agencies within your community, especially from school districts. Try to find out in advance if a local agency within your community (e.g., city, county, school district, or special district) is considering placing a parcel tax on the ballot. The local newspaper is one source of information. Another is calling the administrative offices of local government agencies in your community. They should be able to tell you the agenda for any upcoming governing board meetings of the agency. Upcoming agendas may also be posted on the website of a local government agency (if it has one), so you may also want to visit the website of the local government agency.

If you learn that a parcel tax will be discussed, alert friends and neighbors to the fact that property taxes may be going up and encourage them to join you in attending the local governing board meetings at which the parcel tax is discussed. Take advantage of the public comment portion of the meeting to express your concerns and objections.

SUBMIT A BALLOT ARGUMENT

If a local government agency (or agencies) within your community decides to place a parcel tax on the ballot, you should write and submit an argument against the measure for publication in the voter information pamphlet that will be sent to all voters residing within the agency. The ballot opposition argument is often the *only* opportunity parcel tax opponents will have to reach *all* voters within the jurisdiction to make their case against the parcel tax.

Start by contacting the clerk of the governing board of the agency that has placed the parcel tax measure on the ballot. The clerk should be able to help you obtain the written rules covering all local requirements for submitting ballot arguments.

You should also contact the applicable local elections official in charge of conducting the election for requirements applicable to submitting ballot arguments. Under California law, *county* election officials (generally the county registrar of voters) conduct nearly all school and community college district elections, special district elections, and county elections. For cities, an election may be conducted either by the local city clerk or by county election officials (typically when a municipal election is consolidated with a statewide election).

Independent verification of the applicable legal requirements, such as using a law library to review California Elections Code sections 9500-9509 for school measures, is always advisable. California Elections Code sections can also be viewed online at the website of the California Legislature at: <http://www.legislature.ca.gov>. It is important to follow *all* requirements applicable to the drafting and submission of

ballot arguments since the failure to do so can result in election officials *not* accepting an argument for publication.

Note that more than 100 cities in California are known as charter cities that have their own charter (like a local constitution) setting forth the government structure of the city. Charter cities can have their own requirements applicable to ballot arguments (and other election procedures) that may either be in addition to or supersede the provisions of the California Elections Code. If a city parcel tax is being proposed in a charter city (most large cities in California are charter cities -- check with the local city clerk to determine if you live in a charter city), then it is important to make certain that you comply with any applicable local election requirements.

Under California law, arguments submitted by public officials are generally given first priority, followed by citizen groups, and then followed by individual voters. However, it is rare to see public officials submitting arguments against new spending.

Be sure to find out when the arguments are due. Contact your local elections official for the ballot argument deadline. The deadline is generally set by local election officials.

It is very important to note that the initial ballot arguments are generally due shortly after the deadline for placing a measure on the ballot, which is usually some *three months* prior to the election. Hence, you must move *quickly* after a parcel tax measure is placed on the ballot in order to write and submit a ballot argument in a timely manner.

Parcel tax supporters will be given an opportunity to rebut an opposition argument, but parcel tax opponents will also be given the opportunity to rebut the ballot argument of the parcel tax supporters. The rebuttal arguments are generally due 10 days after the deadline for filing the initial arguments. Note that in some cities, including some charter cities, there is no provision for rebuttal arguments. In such cities, only the initial arguments appear on the ballot.

Arguments can generally be signed by up to five persons. If possible, recruit others to sign. Officers or members of local homeowner, neighborhood, or taxpayers associations are good candidates. If none of these are available, don't hesitate to have signers use the title "homeowner" or "taxpayer."

Arguments should focus on such matters as the cost of the parcel tax, the *regressive* nature of parcel taxes (where each parcel generally pays the same amount without regard to value or land use), that parcel taxes single out property owners to pay for services and programs that typically benefit the community at large (and often *nonresidents* who would pay nothing), and that parcel taxes disproportionately burden *homeowners* (most of the tax burden is generally placed on single-family residential parcels). Property owners should be warned that their *property taxes will go up* if the parcel tax passes.

In ballot arguments it is *not* a good idea to attack the local agency or local officials without pointing to *specific* acts of mismanagement (or questionable expenditures) that demonstrate that local board members are unqualified to handle (or are undeserving to receive) the additional money a parcel tax would provide.

Be sure you are able to document any and all accusations or incidents included in an argument. If an argument is challenged in court, parcel tax opponents do not want to risk having a judge rule that the argument is "false and misleading" and have it removed from the ballot or otherwise modified. If this occurs, those submitting a "false and misleading" argument may be liable for court costs and even the attorney fees for the other side that challenged the argument. If there is any doubt about the content, keep arguments focused on the damage that the additional tax burden will do to homeowners.

If the local agency has passed other tax increases and/or bonds recently, mention this as evidence that the parcel tax may be unnecessary or too burdensome on property owners. Note that it is not uncommon for a local government placing a parcel tax measure on the ballot to have previously passed one or more tax increases in recent years, including a parcel tax.

Arguments are usually limited to about 300 words and rebuttals to 250 words. Arguments should always be clear, simple, and direct. They do not have to be the maximum length allowed.

There is generally no charge to file an opposition argument or a rebuttal argument. Costs of printing the ballot arguments are generally paid by the local agency as an election cost.

GET THE WORD OUT

Every political movement begins with only a few people. Your friends, neighbors, relatives, co-workers, fellow club members, and members of homeowner associations are always an excellent source of support for taxpayer issues. Share the information you gather with them. Many people don't keep up with what is happening in politics, especially local politics, but it is a rare person who doesn't want to know if their taxes are about to go up. Once people are informed, the word will spread.

ASK FOR VOLUNTEERS

Some people will be willing to volunteer their time to help fight a parcel tax, especially if the proposed tax amount is high. Make up a fact sheet that describes the issues and ask them to distribute copies in their neighborhoods. When making up a fact sheet, just like the ballot argument, make it clear, simple, and direct. Try and limit the length to one page, and use a type size that is large enough for voters to read, especially for those voters who are senior citizens.

For those who are less ambitious, set a realistic goal. Ask them to talk to, before election day, at least five other voters who reside within the territory of the local agency. Keep the discussion short and simple, with an emphasis on the fact that property taxes will go up if the parcel tax passes and on some of the equity issues associated with the imposition of a parcel tax.

LETTERS TO THE EDITOR

Another cost-effective way to get out the word and help protect taxpayers is through letters to the editor in your local newspaper. Reader surveys show that the letters to the editor section is one of the most read sections of the newspaper. It is an excellent forum for taxpayers because it allows you to bypass reporters and editors and to express your message directly.

The following are some suggestions for writing and submitting letters to the editor :

- Keep your letter short and to the point – 250 words maximum.
- Stick to making one major point in your letter. For example, “Passage of the parcel tax will result in much higher taxes for homeowners.” Parcel tax equity issues could also be briefly mentioned.
- Tying the letter to a recent story in the newspaper will increase the chances it will be published. If the newspaper editorializes on the parcel tax, either for or against, consider this too an opportunity to send in a letter to the editor.

FORM AN OPPOSITION CAMPAIGN

Consider forming an opposition campaign (or joining the campaign if one has already been formed), especially if it appears that there is widespread community opposition to a parcel tax. A formal opposition campaign can enhance the credibility of the opposition which can lead to such things as greater newspaper coverage and participation in campaign forums. A formal campaign can also help to focus and coordinate the activities of those who are against the parcel tax, including the receipt of campaign contributions.

Note that under the California Political Reform Act, campaign filing obligations will generally be incurred if \$1,000 or more is received or spent in a calendar year in connection with opposing a local ballot measure. For additional information and/or forms in connection with

campaign filing obligations, you can contact the local elections official responsible for conducting the parcel tax election. You can also contact the California Fair Political Practices Commission. The FPPC website is at: <http://www.fppc.ca.gov>.

CAMPAIGN FORUMS

Campaign forums are sometimes held in connection with a local parcel tax. At such forums, the proponents and the opponents have an opportunity to present their case to the public and debate the merits of the parcel tax measure. Such forums are often covered by local newspapers and are sometimes televised on local cable television.

Consider participating in a campaign forum if one has been scheduled. It is a cost-effective way to make your case to the electorate. It is important to make certain that you are adequately prepared on the issues. Strong preparation will enhance the chances of success.

Note, however, that the proponents of many local parcel tax measures do not want to schedule campaign forums for the very reason that it might give “undue” public attention to the measure, or give parcel tax opponents a forum to make their case. If there is a formal opposition campaign, the opponents should not hesitate to push for a campaign forum if one has not been scheduled, or if the parcel tax proponents refuse to debate the merits of a parcel tax measure.

RADIO TALK SHOWS

Radio talk shows are another excellent way to get the message out. By calling programs devoted to current affairs and politics, your views will be heard by thousands of potential voters. This approach can be particularly effective in some of the larger local government agencies that have a parcel tax measure on the ballot, especially with respect to countywide parcel tax measures.

It is best for callers to be prepared on the issues surrounding the parcel tax, especially the specific issues under discussion, before calling

a program. This may necessitate quickly reviewing such items as fact sheets or the ballot pamphlet before calling in.

EDITORIAL REBUTTALS

Local radio stations that air editorial comment usually offer free time to members of the public with differing viewpoints. Those selected by the stations are usually those who call first and can demonstrate knowledge of the issue. As a taxpayer, you are as qualified to talk about tax issues as any other citizen.

WHAT ELSE CAN TAXPAYERS DO?

SUPPORT GOOD LOCAL CANDIDATES

An excellent way to help taxpayers is to become involved in local government elections such as for the local school board, the local city council, and the county board of supervisors. Find out where the various candidates stand on taxation issues and support only those candidates who pledge to *oppose* local tax increases. Remember, placing a parcel tax measure on the ballot is a *discretionary political act* by a local government in which at least a majority of the governing body votes to support a local tax increase. Unfortunately, too many local elected officials believe that raising taxes is an acceptable “solution” to a budgetary “problem.”

PURSUE A LOCAL INITIATIVE TO REDUCE OR REPEAL A PARCEL TAX

In 1996, California voters overwhelmingly approved Proposition 218 (known as the “Right to Vote on Taxes Act”), an initiative constitutional amendment sponsored by the Howard Jarvis Taxpayers Association. Besides giving voters the constitutional right to vote on local government tax increases, Proposition 218 also included provisions (Section 3 of Article XIIC of the California Constitution) allowing

local voters to use the *initiative* process to *reduce or repeal* local government taxes. This includes local parcel taxes.

Under Proposition 218, local tax initiatives are generally subject to a *reduced* signature gathering requirement which is set at 5% of the local votes for all candidates for Governor at the last gubernatorial election. This number is *approximately* equal to 3% of the registered voters.

If a local parcel tax passes by a very close margin, or if local taxpayers are otherwise unhappy with an existing parcel tax, then a local tax reduction or repeal initiative can be pursued under the provisions of Proposition 218. Such local initiatives are generally the *only* tool taxpayers have to *reduce* the tax burden within their community since it is rare for local elected officials to voluntarily reduce or repeal taxes once they have been imposed.

Local initiative procedures are generally set forth in the California Elections Code. Elections Code sections can be viewed online at the website of the California Legislature at: <http://www.legislature.ca.gov>. Charter cities often have their own separate procedures for the exercise of the local initiative power.

The proponents of a tax reduction or repeal initiative must follow all procedures applicable to the exercise of the local initiative power without deviation. Failure to follow all procedures can result in a measure not being placed on the ballot, even if a sufficient number of signatures have been obtained. Once placed on the ballot, local tax reduction or repeal initiatives are subject to majority vote approval.

START A LOCAL TAXPAYER ORGANIZATION

As you work, you are likely to find that others are as fed up as you are with out-of-control spending and the little respect most local officials and bureaucrats show for the taxpayer. Consider forming your own local taxpayer group to coordinate efforts in dealing with city councils or county boards of supervisors, as well as school boards and special district governing boards. If you start with only a few mem-

bers, don't worry. As local tax issues become more prominent, membership will expand.

JOIN HJTA

Join the Howard Jarvis Taxpayers Association. HJTA is the State's foremost taxpayer advocacy organization. HJTA is dedicated to the protection of Proposition 13 and the advancement of taxpayers' rights. Your membership will assure that you are kept informed of developing issues that concern taxpayers throughout the state. In addition, HJTA can assist local individuals and groups with political advice and legal opinions that can be invaluable in local battles against unreasonable taxation. You can visit the HJTA website at: <http://www.hjta.org>.

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