

MLI Outline for History of Taxpayer Initiatives

1. Proposition 13 (1978), added article XIII A to state constitution.
 - a. Sec. 1 capped property taxes at 1% of property's value (initially its purchase price in an open market, arm's length sale).
 - i. Cap can be exceeded (with statutory limits) to pay: pre-13 voter-approved debt; post-13 bonds to acquire or improve property with 2/3 voter approval; or post-13 school bonds with 55% voter approval.
 - b. Sec. 2 limits reappraisal of value to 2% annually, until a change in ownership.
 - c. Sec. 3 allows Legislature to pass state taxes only with 2/3 approval in each house.
 - d. Sec. 4 allows "cities, counties and special districts" to pass local "special taxes" (taxes for specific purposes) only with 2/3 voter approval. (Held not applicable to initiatives, but petitions for review pending.)
 - e. Prop. 13 did not define "taxes," causing years of litigation over taxes vs. fees.
2. Proposition 62 (1986), added §§ 53720-53730 to Gov. Code.
 - a. Required majority voter approval for local "general taxes," but held inapplicable to charter cities.
3. Proposition 218 (1996), added articles XIII C and XIII D to state constitution.
 - a. Expressly applicable to charter cities. Not applicable to developer fees or charges for electric or gas service.
 - b. XIII C, sec. 2(b) - No local government may impose a general tax unless submitted to the electorate at an election for members of the governing body and approved by a majority vote.
 - c. XIII C, sec. 2(d) - No local government may impose a special tax unless submitted to the electorate and approved by a two-thirds vote. (Held not applicable to initiatives, but petitions for review pending.)
 - d. XIII C, sec. 3 - Voters by initiative can reduce or repeal any local tax, fee or assessment. (Held not to include referendum power.)
 - e. XIII D, sec. 4 - Proposed benefit assessments must be supported by an engineer's report apportioning cost of project to "specially benefitted" parcels, and approved by a majority of affected parcel owners, after notice, in a mailed ballot election.

(Can fire protection be funded via benefit assessment, or only special tax?)

- f. XIII D, sec. 6(a) - Proposed property-related fees require mailed notice and, after 45 days, a hearing to determine whether a majority of affected parcel owners (or tenants – see § 2(g); Gov. § 53755) submitted written protests.
 - g. XIII D, sec. 6(b) - Property-related fees cannot generate more than required to provide the service, cannot be used for anything but the service, and cannot exceed the proportional cost of the service attributable to the parcel. (Tiered rates OK, but must reflect costs. (*Capistrano Taxpayers Assn. v. City of San Juan Capistrano* (2015) 235 Cal.App.4th 1493.)
 - h. XIII D, sec. 6(c) - Property-related fees other than sewer, water, and refuse collection require an election and approval by a majority of affected parcel owners or 2/3 of the electorate. (Does “sewer” include storm drainage? Compare *HJTA v. Salinas* (2002) 98 Cal.App.4th 1351 with Gov. § 53751.)
4. Proposition 26 (2010), amended articles XIII A and XIII C.
- a. Defines “tax” as “any levy, charge, or exaction of any kind imposed by a local government,” except: reasonable charges for a specific benefit, privilege, service or product provided directly to the payor and not to those not charged; reasonable regulatory fees for licenses, permits, investigations, inspections, and audits; charges for entrance to or use of public property; criminal fines; developer fees; and property-related fees under art. XIII D, §6. Government’s burden to prove that fees are not excessive, and are proportionate to payer’s burdens on, or benefits from, the governmental activity. (Does this burden of proof apply to charges for use of public property, *e.g.*, franchise fees and bridge tolls? Compare *Zolly v. Oakland* (2020) 47 Cal.App.5th 73 (review granted) with *HJTA v. Bay Area Toll Auth.* (2020) 51 Cal.App.5th 435 (review granted).)