

## SENATE THIRD READING

SB 512 (Pérez)

As Amended July 17, 2025

Majority vote

**SUMMARY**

Specifies that voters of a district may impose transactions and use taxes (TUTs) for transportation purposes by a citizen's initiative.

**Major Provisions**

- 1) Permits the voters of any district that has authorization to impose a TUT for transportation purposes, as specified, to impose the TUT by an initiative.
- 2) Prohibits a TUT enacted by an initiative from exceeding the maximum authorized rate for a tax imposed by an ordinance enacted by the governing body of the district. Requires the initiative to contain all spending limitations and substantive accountability standards that apply to a TUT imposed by an ordinance enacted by the district's governing body, including the inclusion of a transportation expenditure plan that specifies the purposes for which the revenue derived from the tax will be used.
- 3) Specifies that the provisions of this bill are declaratory of existing law.

**COMMENTS**

Existing law allows voters to enact ordinances by initiative in most, but not all, districts. Section 9300 of the Elections Code excludes districts that meet any of five conditions. Four of those conditions likely do not apply to districts authorized to impose a transportation-related TUT, but it is unclear whether the fifth does. As a result, there is some ambiguity about whether voters in those districts can use the initiative process to propose a TUT.

The initiative process is not available in a district "formed under a law that does not provide a procedure for elections," but that phrase is not defined in statute or case law. TUT measures need to be approved by the voters in order to take effect. While voter approval of TUT measures could be viewed as a "procedure for elections," the governing boards of these districts are usually appointed—not elected—which could support the opposite view.

This bill clarifies that voters in such districts may propose a TUT by initiative, resolving that specific ambiguity. However, it does not clarify whether voters may pursue other types of initiatives in those districts.

The California Constitution prohibits a local government from imposing, extending, or increasing a special tax unless it is approved by a two-thirds vote of the electorate. The California Constitution imposes other restrictions on taxes imposed by local governments, including a requirement that a general tax must be approved by the voters at a general election for members of the local government's governing body, except in an emergency.

In August 2017, the California Supreme Court issued its ruling in *California Cannabis Coalition v. City of Upland*, 3 Cal. 5th 924 (2017). In that case, the Court was asked to address whether the

requirement that a local government must submit a proposed general tax to the voters at a regularly scheduled general election applies to measures that are placed on the ballot not by the governing body, but instead by the voters through the initiative process.

The Court concluded that the California Constitution "does not limit voters' power to propose and adopt initiatives concerning taxation," and thus that local general taxes proposed through the citizen's initiative process could appear on the ballot at elections other than regularly scheduled general elections. In reaching that conclusion, the majority opinion noted that the Court has consistently taken the position that courts should protect and liberally construe the people's initiative power.

Because the issue was not before the Court, the majority decision in *Upland* did not directly address whether a local initiative measure that proposes special taxes must comply with the two-thirds vote requirement found in article XIII C, section 2, subdivision (d) of the California Constitution. Nonetheless, following the Court's decision, many commentators speculated about the ruling's potential implications on the vote threshold required to approve local special tax initiatives. (In fact, one justice, in an opinion concurring in part and dissenting in part from the majority opinion in *Upland*, concluded that the logic of the majority's opinion meant that "from here on out, special taxes can be enacted by a simple majority of the electorate, as long as proponents can muster the necessary quantum of support to require consideration of the measure.")

Since *Upland*, several lower courts have been asked to consider whether local special taxes imposed through the initiative process require a two-thirds vote for approval. California Appellate Courts have considered seven such cases, and have uniformly concluded that the two-thirds vote requirement in article XIII C, section 2, subdivision (d) does *not* apply to special taxes proposed through the initiative process. In six of those seven cases, the California Supreme Court declined to review the Appellate Court decision (in the seventh case, no review was sought).

Opponents of this bill argue that *Upland* did not lower the threshold for approval of local special taxes imposed through the initiative process, and claim this bill would lower the threshold for passage of certain local special taxes. Nothing in this bill, however, affects the vote threshold for approval of local initiative measures in districts. Rather, it merely specifies that TUTs may be adopted by initiative in any district already authorized to impose TUTs for transportation purposes.

If opponents believe that local jurisdictions are misapplying *Upland*, nothing in this bill prevents them from challenging those interpretations in court. However, as noted above, the California Supreme Court has repeatedly declined to review Appellate Court decisions that concluded that local special tax initiatives are not subject to the two-thirds vote requirement. Moreover, in a unanimous decision in *Legislature of the State of California v. Weber*, 16 Cal. 5th 237 (2024), the Supreme Court said that the *Upland* ruling included dicta—non-binding commentary— "that special taxes introduced by initiative are not subject to [the] two-thirds vote requirement" found in article XIII C, section 2, subdivision (d). Assembly Elections Committee staff, however, could not locate such a statement in the cited portion of the *Upland* decision.

### **According to the Author**

"SB 512 reaffirms the ability of Californians to fund transportation projects that benefit their communities by clarifying that voters within transportation districts can qualify a transportation

sales tax measure by citizens' ballot initiative. Over the past 40 years, Proposition 218 has granted voters across 25 counties the ability to approve local sales taxes to fund local and regionally significant transportation projects including public transportation, active transportation, interchanges, roadway improvements, and other transportation infrastructure. Although Proposition 218 acknowledges the power of the people to affect local taxes, California's Elections Code conflicts with that authority due to the lack of explicit authority to allow for residents of local transportation districts to propose and pass transportation transaction[s] and use tax measure by means of a citizen's ballot initiative. As a result of these inconsistencies, any transportation tax measure that is passed by citizens' ballot initiative may be susceptible to litigation – rendering these crucial transportation projects vulnerable to unnecessary delays and increased costs. This bill addresses this discrepancy that exists by aligning the state's Elections Code with the provisions of Proposition 218 and other authorizing statutes – bringing much needed consistency and clarity in California law."

### **Arguments in Support**

The sponsor of this bill, the Self-Help Counties Coalition, writes in support, "[A] statutory inconsistency between Proposition 218 (California Constitution Article XIIC, Section 3) and Elections Code Section 9300 has created legal ambiguity regarding the public's right to use the initiative process within certain special transportation districts. Proposition 218 guarantees voters the right to propose local taxes by initiative, but that right is not clearly reflected in Elections Code 9300 for transportation authorities and transit districts governed by special statutes. SB 512 resolves this issue by affirming that if a transportation district already has the authority to levy transportation sales taxes, its voters also have the constitutional right to propose such measures through the initiative process. This legislation does not create new taxing authority or impose new taxes—it simply preserves and protects the democratic process by ensuring that local communities can continue to lead on transportation investment."

### **Arguments in Opposition**

In a joint letter of opposition, opponents write, "Since the passage of Proposition 13 in 1978, California's Constitution has required a two-thirds vote of the electorate to approve local special taxes – those earmarked for specific purposes... The *Upland* ruling addressed only the timing of elections for citizen initiatives and did not alter the substantive vote thresholds for tax approval. The Supreme Court declined to comment on whether such action would be illegal, thus creating ambiguity and uncertainty. Legal experts have consistently interpreted the decision as preserving the two-thirds vote requirement for special taxes, regardless of whether a measure is placed on the ballot by a governing body or through a citizen initiative. Despite this, some local governments have exploited the ambiguity by advancing tax measures through initiatives to bypass the two-thirds threshold. SB 512 would codify this tactic, allowing transportation-related special taxes to be enacted with a simple majority vote, contrary to the intent of voter-approved Propositions 13 and 218."

### **FISCAL COMMENTS**

According to the Assembly Appropriations Committee, to the extent this bill requires a qualified TUT measure be put on the ballot, with resultant workload costs for county elections officials, this bill may create a state-mandated local program. If the Commission on State Mandates determines the provisions of this bill create a new program or impose a higher level of service for which the state must reimburse local costs, counties could seek reimbursement from the state.

However, since a county elections official may recover the costs of administering an election for another local agency from that agency, these costs are likely non-reimbursable by the state.

## VOTES

### SENATE FLOOR: 35-0-5

**YES:** Allen, Alvarado-Gil, Archuleta, Arreguín, Ashby, Becker, Blakespear, Cabaldon, Caballero, Cervantes, Choi, Cortese, Dahle, Durazo, Gonzalez, Grayson, Grove, Hurtado, Jones, Laird, Limón, McGuire, McNERney, Menjivar, Padilla, Pérez, Richardson, Rubio, Stern, Strickland, Umberg, Valladares, Wahab, Weber Pierson, Wiener

**ABS, ABST OR NV:** Niello, Ochoa Bogh, Reyes, Seyarto, Smallwood-Cuevas

### ASM ELECTIONS: 5-2-0

**YES:** Pellerin, Bennett, Berman, Solache, Stefani

**NO:** Macedo, Tangipa

### ASM APPROPRIATIONS: 11-4-0

**YES:** Wicks, Arambula, Calderon, Caloza, Elhawary, Fong, Mark González, Hart, Pacheco, Pellerin, Solache

**NO:** Dixon, Jeff Gonzalez, Ta, Tangipa

## UPDATED

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