

Date of Hearing: July 16, 2025

ASSEMBLY COMMITTEE ON ELECTIONS

Gail Pellerin, Chair

SB 512 (Pérez) – As Amended June 16, 2025

SENATE VOTE: (vote not relevant)

SUBJECT: District elections: initiatives.

SUMMARY: Specifies that voters of a district may impose transactions and use taxes (TUTs) for transportation purposes by a citizen's initiative. Specifically, **this bill:**

- 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 accountability standards, including a transportation expenditure plan, that apply to a TUT imposed by an ordinance enacted by the district's governing body.
- 3) Specifies that the provisions of this bill are declaratory of existing law.

EXISTING LAW:

- 1) Provides that the initiative is the power of the electors to propose statutes and amendments to the Constitution and to adopt or reject them. Permits initiative powers to be exercised by the electors of each city or county under procedures that the Legislature shall provide. (California Constitution, Article II, §§8, 11)
- 2) Requires a state initiative measure to receive a majority of votes cast thereon in order to take effect. (California Constitution, Article II, §10(a); Article XVIII, §4)
- 3) Provides that if a majority of the voters voting on a proposed local initiative ordinance vote in its favor, the initiative shall take effect, as specified. (Elections Code §§9122, 9217, 9320)
- 4) Provides that in addition to any other method provided by law, ordinances may be enacted by a district through the initiative process, except in irrigation districts; a district formed under a law that does not provide a procedure for elections; a district formed under a law which does not provide for action by ordinance; a district governed by an election procedure that permits voters, in electing the district's directors or trustees, to cast more than one vote per voter; or to a district in which the directors are empowered to cast more than one vote per director when acting on any matter. Provides, for these purposes, that the term "district" includes any regional agency that has the power to tax, to regulate land use, or to condemn and purchase land. (Elections Code §§317, 9300)
- 5) Prohibits a local government from imposing, extending, or increasing a general tax unless it is submitted to the electorate and approved by a majority vote. Requires the general tax

proposal to be submitted to the voters at an election that is consolidated with a regularly scheduled general election for members of the governing body of the local government, except as specified. Prohibits a local government from imposing, extending, or increasing any special tax unless and until it is submitted to the electorate and approved by a two-thirds vote. Provides that any tax levied by a special purpose district or agency is a special tax. (California Constitution, Article XIII C, §2)

- 6) Authorizes a county board of supervisors to create a local transportation authority (authority) to operate within the county. (Public Utilities Code §180050)
- 7) Authorizes an authority to impose a retail TUT ordinance applicable in the incorporated and unincorporated territory of a county if the ordinance is adopted by a two-thirds vote of the authority and imposition of the tax is subsequently approved by the electors voting on the measure. (Public Utilities Code §180201)
- 8) Requires a county transportation expenditure plan to be prepared for the expenditure of the revenues for the period during which the tax is to be imposed, and prohibits the plan from being adopted until it has received the approval of the board of supervisors and of the city councils representing both a majority of the cities in the county and a majority of the population residing in the incorporated areas of the county. (Public Utilities Code §180206)

FISCAL EFFECT: Unknown. State-mandated local program; contains reimbursement direction.

COMMENTS:

- 1) **New Bill:** This bill recently was amended at the request of the author to delete its prior contents and add the current provisions. As a result, prior votes and analyses are not relevant. The current version of this bill proposes policy changes that have not been heard in an Assembly or Senate policy committee during this legislative session.
- 2) **Purpose of the Bill:** 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.

- 3) **Initiative Process, Defined:** As detailed above, the California Constitution guarantees the right of voters to propose statutes and amendments to the Constitution and to adopt or reject them, and requires the Legislature to provide for initiative powers that may be exercised by city and county electors. Additionally, although not required by the California Constitution, the Legislature has adopted procedures in the Elections Code to allow voters to exercise initiative powers in some districts.

As used in this analysis, the term “initiative” applies exclusively to measures initiated by the voters of a jurisdiction through the collection of voters’ signatures on initiative petitions. Other types of measures that appear on the ballot for voters’ consideration, including measures that a governing body of a local government places on the ballot, are not considered initiative measures under state law or for the purpose of this analysis.

- 4) **Local Taxes, Initiative Measures, and Vote Thresholds:** As detailed above, 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 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, and that it would not construe the Constitution as limiting that power “[u]nless a provision explicitly constrains the initiative power or otherwise provides a similarly clear indication that its purpose includes constraining the voters’ 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). Committee staff, however, could not locate such a statement in the cited portion of the *Upland* decision.

- 5) **District Initiative Measures:** As detailed above, existing state law already provides for an initiative process in some, but not all, districts. Specifically, section 9300 of the Elections Code provides that ordinances may be enacted in districts through the initiative process, except in districts that meet one of five enumerated conditions. Four of those conditions generally do not appear to apply to districts that are authorized to impose a TUT for transportation purposes, but it is less clear whether the fifth condition applies. Accordingly, there may be some ambiguity about whether a voter can propose to enact a TUT for transportation purposes through the initiative process in one of those districts under existing law.

Specifically, state law provides that the initiative process is not available in a district “formed under a law that does not provide a procedure for elections.” State law does not further elaborate on what it means for a law to provide “a procedure for elections,” nor is there relevant case law that interprets the meaning of that phrase.

State law generally requires TUT measures to be approved by the voters in order to take effect. It could be argued that the statutory provisions for voter approval of those measures are “a procedure for elections.” On the other hand, the governing boards of districts that are authorized to impose a TUT for transportation purposes generally are appointed, rather than

elected, so those districts do not hold regularly-scheduled districts elections for the purpose of electing governing board members. That fact may support an argument that the laws governing those boards does *not* provide a procedure for elections.

By expressly providing that the voters in these districts may impose a TUT for transportation purposes through the initiative process, this bill appears to resolve any ambiguity about whether the initiative process is available in those districts *for that purpose*. However, this bill does not resolve any existing ambiguity about whether voters in those districts may pursue initiative measures that do not meet the requirements outlined in this bill.

- 6) **Constraints on Initiative Measures and Suggested Amendments:** This bill requires a local initiative that seeks to impose a TUT for transportation purposes to contain spending limitations and accountability standards, including a transportation expenditure plan, that would apply to a TUT ordinance enacted by the district's governing body. In at least some circumstances, however, state law imposes procedural requirements on local TUT ordinances that it would be impossible for initiative proponents to meet without the cooperation of local governmental bodies.

For example, county transportation expenditure plans generally must be approved by local governmental bodies before adoption. If this bill is interpreted to require initiative proponents to comply with those types of *procedural* requirements, then the effect of this bill could be to limit initiative proponents to proposing a measure that incorporates a transportation expenditure plan that has already been adopted by the governing body of the district. Such a limitation would seem to be fundamentally at odds with the intent of the initiative process to reserve to the people the power to express their will in the law without the aid or involvement of governmental bodies.

To ensure that this bill does not impose constraints on initiative proponents that are impossible to meet, or that otherwise could require initiative proponents to have substantial involvement from governmental entities when drafting the initiative, committee staff recommends that this bill be amended to specify that an initiative that seeks to impose a TUT for transportation purposes must comply with the *substantive* requirements that apply to such ordinances when adopted by the governing body, but need not comply with the *procedural* requirements that apply to the governing body. Specifically, committee staff recommends that the text on page 3, lines 9-16 of the bill be amended as follows:

(2) A transactions and use tax enacted by initiative measure pursuant to paragraph (1) shall not exceed the maximum authorized rate for a tax imposed by an ordinance enacted by the governing body of the district. The initiative measure shall contain all spending limitations and substantive accountability ~~standards, including, but not limited to, a transportation expenditure plan, standards~~ applicable to a tax imposed by an ordinance enacted by the governing body of the ~~district.~~ district, including, but not limited to, the inclusion of a transportation expenditure plan that specifies the purposes for which the revenue derived from the tax will be used, but not including any procedural requirement such as a requirement that the transportation expenditure plan be approved by local agencies.

- 7) **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 XIII C, 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.

- 8) **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. This safeguard was reaffirmed by Proposition 218 in 1996, which extended the two-thirds vote requirement to all local governments and clarified that any new or increased local tax requires voters' approval. These provisions were designed to promote affordability and ensure broad public consensus before imposing new costs on Californians...

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.

- 9) **Previous Legislation:** SB 904 (Dodd), Chapter 866, Statutes of 2024, specified that special taxes may be imposed through the initiative process in the Sonoma-Marin Area Rail Transit District, among other provisions.

REGISTERED SUPPORT / OPPOSITION:**Support**

Self-Help Counties Coalition (Sponsor)
American Council of Engineering Companies of California
Associated General Contractors of California
California & Nevada Civil Engineers and Land Surveyors Association
California Alliance for Jobs
California Asphalt Pavement Association
California Association of Councils of Governments
California Construction & Industrial Materials Association
California Geotechnical Engineering Association
California State Council of Laborers
California-Nevada Conference of Operating Engineers
Coachella Valley Association of Governments
District Council of Iron Workers of the State of California and Vicinity
International Union of Operating Engineers
Los Angeles / Orange Counties Building and Construction Trades Council
Rebuild Socal Partnership
Riverside County Transportation Commission (RCTC)
Southern California Association of Scaffold Contractors
Southern California Contractors Association
State Building & Construction Trades Council of California
Transportation California
Tulare County Association of Governments

Opposition

Acclamation Insurance Management Services
Alameda County Taxpayers' Association
Allied Managed Care
California Association of Realtors
California Building Industry Association
California Business Properties Association
California Business Roundtable
California Chamber of Commerce
California Fuels and Convenience Alliance
California Taxpayers Association
Coalition for Small and Disabled Veteran Businesses
Coalition of Sensible Taxpayers (COST)
Coalition of Small and Disabled Veteran Businesses
Contra Costa Taxpayers Association
Council on State Taxation
Family Business Association of California
Flasher Barricade Association
Howard Jarvis Taxpayers Association

Kern County Taxpayers Association
Lake Forest Chamber of Commerce
National Federation of Independent Business
Orange County Taxpayers Association
Solano County Taxpayers Association
4 individuals

Analysis Prepared by: Ethan Jones / ELECTIONS / (916) 319-2094