



## Senator Scott Wiener, 11<sup>th</sup> Senate District

### Senate Bill 268– Enhanced Transparency for Local Tax Measures

#### SUMMARY

SB 268 expands transparency for local tax measures by requiring key financial measures be included in the voter information guide, while amending recently enacted ballot label requirements that have proven problematic for bond issues and tiered tax rates.

Specifically, this bill would require a measure that imposes or increases tiered tax rates or authorizes the issuance of bonds to include the words “See voter guide for information” in the ballot label.

SB 268 would further improve financial disclosures for local bonds, and create new disclosures for tiered tax rates, in the voter information guide. This would enable local tax mechanisms to provide enhanced information in the voter information guide rather than on the 75-word ballot label, which does not provide enough space for appropriate context and explanation, ultimately leading to voter confusion.

#### BACKGROUND/EXISTING LAW

##### Recent Changes to the Elections Code

California Elections Code Section 13119 proscribes how a measure, proposed by a local governing body or submitted to the voters as an initiative or referendum measure, poses a ballot question to voters. Beginning in 2015, the code section was amended to require a measure that imposes or increases a tax to include in the ballot label language “the amount of money raised annually and the rate and duration of the tax to be levied.” Subsequent amendments in 2017 apply the law to measures authorizing the issuance of bonds.

##### Severely Limits Bonds and Tiered Tax Rates

While the Elections Code changes may have been well intended, they have severely limited the ability of local entities, including schools, cities, counties, special districts, hospitals, and libraries, to pass local general obligation bonds for critical infrastructure projects or to enact tiered tax rates.

##### New Ballot Labels Consumed with Disclosures

The required statements for tiered tax rate measures, bond measures, or measures combining a tax and bonds, may consume most of the 75 words of the ballot label language leaving few, if any, words to describe how taxes or bond proceeds will be spent in the community.

##### Voter Confusion

Many voters have never seen a property tax bill, because they don’t pay the bills in the household, their property taxes are paid by the mortgage company, or because they pay through rent to a landlord. Particularly confusing is the term “assessed value” which can be wrongly understood as market value, or not understood at all. Experience has shown that when voters don’t understand the ballot label, they often vote no.

##### Forces Regressive Flat Rate Taxation

For tiered tax rates with multiple rate categories, even a bare-bones description of the rates would consume all the 75 words allowed on ballot labels. Over time, local agencies will be forced to take simpler flat rate approaches to local taxation that favor large property owners and the wealthy, while applying a higher tax burden on the owners of smaller properties and low-income communities.

##### Over-Simplifications Don’t Make Sense

For bond measures, the new ballot labels are misleading voters. The tax rate for bonds issued in multiple series under one voter approval may fluctuate significantly and unpredictably over time. Attempting to comply with the new law, local agencies for both bonds and tiered tax rates are forced to insert rates into their ballot label that are averages, projections, or statutory maximums that don’t tell the voter how much the cost of the tax would be for them. These over-simplifications in the context of bonds and tiered tax rates don’t make sense to voters.

### Negative Effects of Elections Code Changes

In 2018, numerous local agencies saw a decrease of 5 to 15 percentage points in their polling as a result of the new Elections Code ballot label requirements. This contributed to the failure of a number of bonds, and also forced numerous local agencies to reduce the size of their bonds or not place their bonds on the ballot. Polling shows this does not reflect a change in voters' personal beliefs, but rather is a result of voter confusion.

### New Legal Risks for All Local Taxes

Placing averages, projections, or maximums in the ballot label may create a de facto cap on the rate, duration, and amount raised annually. The ballot label requirements for taxes force the complexities of modern, non-regressive taxation to be precisely explained in 75 words or less on the ballot itself. Failure to comply may result in legal challenge. The resulting bond investor concerns likely will result in less favorable rates for borrowing, increasing costs for taxpayers and reducing the public benefits delivered from special tax proceeds.

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### SOLUTION

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SB 268 would require a measure that imposes or increases tiered tax rates or authorizes the issuance of bonds to state in the ballot label **"See voter guide for information."** The bill would further require the following key financial measures to be included in the voter information guide.

#### Key Financial Measures

1. **Rates** – A list of all tax rates that would apply and a description of how the taxes will be imposed.
2. **Factors Changing the Tax Amount** - A description of how the tax rate or rates may vary over time, including any factor that would change the amount of tax paid.
3. **Duration** - An explanation of the duration of the tax stating whether the tax expires on a specific date, expires upon final payment of indebtedness, or does not expire until ended by the voters.
4. **Annual Revenue** - The best estimate from official sources of the average annual dollar amount of taxes that would be collected over the first ten years of the initial levy.

Existing disclosures for bonds in the tax rate statement would remain in the voter information guide including the **average tax rate, the highest tax rate, and the total debt service for bonds.**

Simple flat rate taxes, such as sales taxes, would continue to provide the rate, duration, and estimated annual revenue in the ballot label.

### Room for Explanation

Because of the complexity of bonded indebtedness and tiered tax rates, these measures would not be required to state in the ballot label the amount of money raised annually and the rate and duration of the tax to be levied. However, enhanced and accurate information would be available in the voter information guide where there is room to provide a plain language explanation.

### Smart Policy that Enhances Transparency

SB 268 addresses a serious problem in current law that essentially prohibits local tax mechanisms that cannot be accurately explained in the 75-word ballot label. Those mechanisms tend to be the ones that are intended to drive a policy outcome such as the flexibility to issue bonds when the funds are needed, the provision of tax-based incentives for enterprise zones or the preservation of agricultural lands, or the levying of taxes in tiers to lighten the tax burden for those least able to afford it.

SB 268 is smart policy that enhances transparency without quashing innovations in local taxation supporting desired policy outcomes.

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### SUPPORT

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- American Federation of State, County and Municipal Employees (AFL-CIO)
  - Association of California Healthcare Districts
  - California Special Districts Association
  - California State Association of Counties (CSAC)
  - California State Council of SEIU
  - California Teachers Association
  - Coalition for Adequate School Housing (CASH)
  - Community College Facility Coalition
  - Community College League of California
  - Compton Unified School District
  - County of Santa Cruz
  - Mayor Darrell Steinberg, City of Sacramento
  - Mayor Eric Garcetti, City of Los Angeles
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- Mayor Libby Schaaf, City of Oakland
- Mayor London Breed, City & County of San Francisco
- Mayor Robert Garcia, City of Long Beach
- Mayor Rusty Bailey, City of Riverside
- Non-Profit Housing Association of Northern California
- San Diego Housing Federation
- School Energy Coalition
- Silicon Valley at Home
- Small School Districts Association
- State Building & Construction Trades Council of California (AFL-CIO)
- Urban Counties of California
- Valley Water

**FOR MORE INFORMATION**

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