

Introduced by Senator Yee

February 22, 2013

An act to add Section 53755.5 to the Government Code, relating to local government.

LEGISLATIVE COUNSEL'S DIGEST

SB 553, as amended, Yee. Local government: assessment: elections ~~pro~~ procedures.

Articles XIII C and XIII D of the California Constitution generally require that assessments, fees, and charges be submitted to property owners for approval or rejection after the provision of written notice and the holding of a public hearing. Existing law, the Proposition 218 Omnibus Implementation Act, prescribes specific procedures and parameters for local jurisdictions to comply with Articles XIII C and XIII D of the California Constitution.

Existing statutory law provides notice, protest, and hearing procedures for the levying of new or increased assessments, fees, and charges by local government agencies pursuant to Articles XIII C and XIII D of the California Constitution.

This bill would, *where a proposed fee or charge is submitted to the electorate for approval, require a county elections official to conduct that election. This bill would also* require, if a local government agency opts to submit the proposed fee or charge for approval by a vote of the *subject* property owners, as provided, that specified procedures be applied, ~~except that ballots shall not be weighted. This bill would also require, if a local government agency opts to submit the proposed fee or charge for approval by the electorate, as provided, that the election~~

~~be conducted by the county elections official or his or her designee regarding the form and tabulation of ballots. The bill would become operative on July 1, 2014.~~

By creating new requirements for property assessments conducted by counties and cities, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 53755.5 is added to the Government
2 Code, to read:

3 53755.5. When an agency proposes to impose or increase any
4 fee or charge subject to Section 6 of Article XIII D of the California
5 Constitution that is not exempt from the requirements of
6 subdivision (c) of Section 6 of Article XIII D of the California
7 Constitution, the following procedures, *in addition to any other*
8 *procedures adopted by the agency pursuant to Section 6 of Article*
9 *XIII D of the California Constitution*, shall apply to the election:

10 (a) *If the agency opts to submit the proposed fee or charge for*
11 *approval by a two-thirds vote of the electorate residing in the*
12 *affected area, the election shall be conducted by the agency's*
13 *elections official or his or her designee. If the election is conducted*
14 *by the county elections official, the agency, if other than the county,*
15 *shall reimburse the county for the actual and reasonable costs*
16 *incurred by the county elections official in conducting the election.*

17 (a)
18 (b) *If the agency opts to submit the proposed fee or charge for*
19 *approval by a majority vote of the property owners who will be*
20 *subject to the fee or charge, ~~subdivisions (b) to (e), inclusive, of~~*
21 *Section 53753 shall apply, except that the ballots shall not be*
22 *weighted; the following procedures shall apply to the election:*

1 ~~(b) If the agency opts to submit the proposed fee or charge for~~
2 ~~approval by a two-thirds vote of the electorate residing in the~~
3 ~~affected area, the election shall be conducted by the county~~
4 ~~elections official or his or her designee.~~

5 *(1) On the face of the envelope in which the notice of election*
6 *and ballot are mailed, there shall appear in substantially the*
7 *following form in no smaller than 16-point bold type: “OFFICIAL*
8 *BALLOT ENCLOSED.” Below that, an agency may repeat the*
9 *phrase “OFFICIAL BALLOT ENCLOSED” in a language or*
10 *languages other than English.*

11 *(2) The ballot shall include the agency’s address for return of*
12 *the ballot and a place where the person returning it may indicate*
13 *his or her name, a reasonable identification of the parcel, and his*
14 *or her support or opposition to the proposed fee. The ballot shall*
15 *be in a form that conceals its content once it is sealed by the person*
16 *submitting it. The ballot shall remain sealed until the ballot*
17 *tabulation pursuant to paragraph (3) commences.*

18 *(3) An impartial person designated by the agency who does not*
19 *have a vested interest in the outcome of the proposed fee shall*
20 *tabulate the ballots submitted in support of or opposition to the*
21 *proposed fee. For the purposes of this section, an impartial person*
22 *includes, but is not limited to, the clerk of the agency. If the agency*
23 *uses agency personnel for the ballot tabulation, or if the agency*
24 *contracts with a vendor for the ballot tabulation and the vendor*
25 *or its affiliates participated in the research, design, engineering,*
26 *public education, or promotion of the fee, the ballots shall be*
27 *unsealed and tabulated in public view to permit all interested*
28 *persons to meaningfully monitor the accuracy of the tabulation*
29 *process.*

30 *(4) The ballot tabulation may be continued to a different time*
31 *or location accessible to the public, provided that the time and*
32 *location are announced at the location at which the tabulation*
33 *commenced. The impartial person may use technological methods*
34 *to tabulate the ballots, including, but not limited to, punchcard or*
35 *optically readable (bar-coded) ballots. During and after the*
36 *tabulation, the ballots and, if applicable, the information used to*
37 *determine the weight of each ballot, shall be treated as public*
38 *records, as defined in Section 6252, subject to public disclosure*
39 *and made available for inspection by any interested person. The*
40 *ballots shall be preserved for a minimum of two years, after which*

1 *they may be destroyed as provided in Sections 26202, 34090, and*
2 *60201.*

3 *(c) The proceedings described in subdivision (b) shall not*
4 *constitute an election or voting for purposes of Article II of the*
5 *California Constitution or of the Elections Code.*

6 *(d) This section shall become operative on July 1, 2014.*

7 SEC. 2. If the Commission on State Mandates determines that
8 this act contains costs mandated by the state, reimbursement to
9 local agencies and school districts for those costs shall be made
10 pursuant to Part 7 (commencing with Section 17500) of Division
11 4 of Title 2 of the Government Code.