Conservation Finance Feasibility Study, January 2016

# Los Angeles County, California

The Trust *for* Public Land

LAND FOR PEOPLE

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# EXECUTIVE SUMMARY

- The Trust for Public Land (TPL) is a national nonprofit with expertise on public finance measures for parks and open space. TPL has been involved in close to 500 successful ballot measures throughout the country, raising over $57 billion in much needed funds for park priorities and land conservation.
- The Los Angeles County Board of Supervisors directed the Regional Parks and Open Space District to research potential funding mechanisms to fund the park priorities that will result from the Countywide Comprehensive Park and Recreation Needs Assessment Report. The two types of funding under consideration are a "uniform amount flat rate" parcel tax and a "uniform amount square footage" parcel tax.
- These two options are both legally and politically feasible. Either option can include a provision for the Board of Supervisors to change the rate on a yearly basis based on changes in the Consumer Price Index. While a uniform amount flat rate tax is more common, communities within Los Angeles County have used both of these funding options including various school district flat rate parcel taxes and the countywide square footage based "Trauma Tax".
- A tax based on square footage is more similar to the District's existing and expired assessments than the flat per parcel tax, as larger parcels pay a higher percentage of the overall revenue.
- Funding levels have not increased since 1996, while the population and park assets have increased, leading to significant challenges. A parcel tax based on square footage can come closer to accommodating the urgent needs for increasing park access and maintaining safe and clean existing parks.
- In addition a parcel tax based on square footage means that multi-unit properties (with more residents using parks and recreational services) are paying more than single family homes of a similar per unit size. Larger businesses with more employees who benefit from the increased access to parks will pay a higher share than a single family home as well.
- Initial polling shows robust support for a uniform amount square footage parcel tax.
- **The Trust for Public Land recommends moving forward with preparing to place a uniform amount square footage parcel tax on the ballot for voter consideration**.
- We also recommend that, once the Needs Assessment Report is complete, the Board conduct further public opinion research to test assumptions related to the willingness to pay, refine ballot language and understand how voters view the priorities identified by the Needs Assessment Report.

# INTRODUCTION

The Trust for Public Land (TPL) is a national nonprofit organization dedicated to conserving land for people to enjoy as parks, gardens, and natural areas. Since 1996, TPL has been involved in nearly 500 successful ballot measures and twenty successful legislative campaigns that have created more than $57 billion in new funding for land conservation. Voters have approved 81 percent of the ballot measures supported by The Trust for Public Land.

Overall, voter support of local conservation finance measures in California has been mixed. Roughly 61 percent of local conservation finance measures (53 of 87) on the ballot in California between 1990 and 2014 were approved. Success at the ballot is hampered in the state by the high approval threshold (2/3rds of the vote) required for local bond and special tax measures. The Trust for Public Land and its affiliate The Conservation Campaign[1] have supported 19 local conservation finance measures in California, 15 of which were approved (78 percent).

This brief report examines several mechanisms for generating and dedicating local revenue for parks in Los Angeles County.[2] As these options require voter approval, the report also contains a summary of the pathways to the ballot. This research provides a stand-alone, fact-based reference document that can be used to evaluate available financing mechanisms from an objective vantage point. Combined with public opinion research testing ballot language, tax tolerance, and program priorities, this report provides Los Angeles County with a recommended option for moving forward.

In August 2015, the Los Angeles County Board of Supervisors directed the Department of Parks and Recreation through the Regional Parks and Open Space District (the District) to research potential funding mechanisms to support parks creation and operations the county. The District has primarily been funded by two benefit assessments which generated approximately $80 million annually. The 1992 assessment expired in FY 2014-15, and the 1996 assessment will end in FY 2018-19, leading to an urgent need for funding to provide safe, well-maintained parks for the growing population of Los Angeles County. The Countywide Comprehensive Park and Recreation Needs Assessment Report (Needs Assessment Report) currently underway will provide essential details regarding funding needs, to help make a final decision on the potential measure's amount. The options are summarized briefly below and in the appendices.

**Funding Options under consideration:** Los Angeles County is considering two different models for a special per-parcel tax to support parks and open space acquisition and operations. For information on other funding mechanisms and why they are not appropriate for this effort please see Appendix D.

The two types of parcel taxes under consideration are "**uniform amount flat rate**" and "**uniform amount square footage**" parcel taxes. In Los Angeles County, a flat $34 per parcel tax levied on all property countywide would generate approximately $80 million in annual revenue – roughly equivalent to the total 2014 annual revenues from the District's two benefit assessments – an

[1] The Conservation Campaign (TCC) is a non-profit 501(c)(4) organization affiliated with TPL.
[2] The contents of the report are based on information available at the time of research and drafting (Fall 2015).

amount that has not increased in 20 years, while costs have continued to rise. A tax of 3 cents per square foot (0.03) would generate approximately $191 million and would cost the average single-family homeowner about $45 per year. A summary of these options can be found in Appendix C.

A tax based on square footage more closely resembles the District's existing and expired assessments than the flat per parcel tax in that it imposes higher taxes on larger parcels. This structure is less commonly used in California. However, Los Angeles County successfully implemented a square footage tax as its "Trauma Tax", passed by voters in 2002.This report provides more detail on the differences and benefits of each of these models and recommends a preferred model based on the information available.

# PARCEL TAX – TWO OPTIONS

A parcel tax is a type of excise tax that is based on either a flat per-parcel rate or a rate that is based upon the use, size, and/or number of units on each parcel. The two most common types of parcel taxes are "uniform amount flat rate" and "uniform amount square footage" parcel taxes. Generally, state law requires that special district parcel taxes apply uniformly to all types of property. Some jurisdictions also include exemptions for parcels owned by seniors, low income households, and taxpayers with disabilities.[3] However, due to the lack of clarity in the enabling legislation for special districts, we would not recommend proposing exemptions at this time. More information on the legal questions around exemptions can be found in Appendix E.

A parcel tax must be adopted as a special tax, requiring 2/3rds voter approval.[4] Parcel taxes are used to provide various local government and school services. Since 1990, nine communities have passed a parcel tax for land conservation and open space purposes. Most recently, voters in the Santa Clara County Open Space Authority approved a $24 per parcel tax for 15 years to improve parks, open spaces and trails and to protect land, water quality and wildlife habitat. In 2012, the Santa Monica Mountains Recreation and Conservation Authority and the Woodland Hills, Encino, and Tarzan Mountains Recreation and Conservation Authority asked voters to approve a parcel tax of $24/year and $19/year, respectively.

Most parcel taxes are uniform amount flat rate taxes –that is, the same regardless of the parcel's size or use. From 2002 to 2012, flat rate taxes represented 86 percent of the 389 parcel taxes proposed by school districts, 51 percent of those proposed by cities, and 75 percent of those proposed by special districts. The median rate was $96 per parcel. Among cities that enacted flat-rate parcel taxes during this period, the median was $60 per parcel.

[3] California Taxpayers Association. March 2013. "The Other Property Tax: an Overview of Parcel Taxes in California." http://www.caltax.org/ParcelTaxPolicyBrief.pdf

[4] Sonstelle, Jon. *Parcel Taxes as a Local Revenue Source in California*. Public Policy Institute of California. April 2015, 4. http://www.ppic.org/content/pubs/report/R_415JSR.pdf.
In 1988, the California Court of Appeals ruled that any general tax on property must be based on the value of property and thus fall under the Proposition 13 limit. A special tax need not be based on value, however. Therefore, all parcel taxes are special taxes, requiring a two-thirds vote, a ruling codified by Proposition 218 in 1996.

From 2003 through 2012, special districts placed 238 parcel tax proposals on the ballot. Among the 193 proposals from special districts for which tax rate information was available, 142 proposed a flat rate for all parcels, 44 proposed to tax different land uses at different rates, and 7 proposed a tax on square footage. The median flat rate was $68 per parcel.[5] Local governments are not required to include a sunset date for parcel taxes. About one-third of parcel taxes are imposed in perpetuity.[6]

[5] Sonstelle, Jon. *Parcel Taxes as a Local Revenue Source in California*. Public Policy Institute of California. April 2015, 4.
[6] California Tax Foundation, September 2014. "Piecing Together California's Parcel Taxes."

### A Los Angeles County Example - the Trauma Tax

The Los Angeles County Trauma Tax is a special tax, also known as Measure B, approved by voters on November 5, 2002 by a 73 percent margin, beginning in fiscal year 2003-2004. Measure B, initially levied at a rate of 3 cents per square foot of structural improvements, provides funding for the countywide system of trauma centers, emergency medical services, and bioterrorism response. The Board of Supervisors may, by majority vote, increase or decrease the tax rate. Increases to the tax rate are limited to the cumulative increases, if any, in the medical component of the Consumer Price index (CPI). For Fiscal Year 2015-2016, it is set at 4.24 cents per square foot of structural improvements on the property. For example, for a property with a 1,500 square feet house on it, 1,500 would be multiplied by $0.0424 resulting in an assessment of $63.60. Improvements used for parking are exempted from the assessment.[7] The tax generated roughly $271 million in Fiscal Year 2014.[8] It will continue in perpetuity.

**Ballot Language for Los Angeles County's Measure B of the November 5, 2002, Election**

PRESERVATION OF TRAUMA CENTERS AND EMERGENCY MEDICAL SERVICES; BIOTERRORISM RESPONSE.

To avoid the life-threatening shutdown of Los Angeles County's trauma network, maintain and expand the trauma network countywide, ensure more timely response to critical and urgent medical emergencies and respond effectively to biological or chemical terrorism, shall all property owners pay an annual tax of three cents per square foot of improvements (buildings) on developed property?

Approved: 73% Yes

Source: County of Los Angeles *Official Sample Ballot and Voter Information* booklet for the November 5, 2002, general election.

## Options for Los Angeles County Parks

### Flat per-parcel tax

Based on the number of taxable parcels in Los Angeles County (2,346,578), Los Angeles County would need to levy a flat $34 per parcel tax to generate roughly $80 million in annual revenue – roughly equivalent to the total 2014 annual revenues from the District's two benefit assessments.[9] In 2014, Los Angeles County placed parcel tax measure on the November ballot to support development, acquisition, improvement, restoration and maintenance of parks, recreational, cultural and community facilities, and open space lands within the County. Proposition P authorized a $23 per parcel tax to replace the expiring (1992) assessment. The measure received 62 percent voter support but failed to meet the 2/3rds approval requirement. Based on this result, if the County wishes to place a similar flat tax on the ballot, more extensive public opinion research, including varying the amount of the tax, can provide insight into what voters are willing to support.

**Estimated Revenue & Costs of Parcel Tax**

| Revenue Generated* | Total # of Parcels | Annual Cost per Parcel |
|---|---|---|
| $60,000,000 | 2,346,578 | $26 |
| $80,000,000 | 2,346,578 | $34 |
| $100,000,000 | 2,346,578 | $42 |
| $120,000,000 | 2,346,578 | $50 |

*2014 assessments totaled approximately $19.28 per single family residence (SFR) parcel and generated $78 M per year. The 1992 (expired) assessment ($12.50 per SFR) generated roughly $50 M*

[7] Los Angeles County Health Services website: Trauma Emergency Bioterrorism Response Assessment FAQs.
[8] County of Los Angeles 2014 Comprehensive Annual Financial Report, p. 145.
[9] Note, these figures are estimates.

### Square-footage tax

Alternatively, a special parcel tax could be levied as a uniform amount per square footage similar to the trauma tax. For example, a tax of 3 cents per square foot (0.03) would generate approximately $191 million annually and would cost the average single-family homeowner about $45 per year.

| Estimated Revenue & Costs of Parcel Tax | | | |
|---|---|---|---|
| Revenue Generated* | Total Square Footage | Rate Cents/Sq.Ft. | Annual Cost Avg. SFR* |
| $95,527,500 | 6,368,500,000 | 1.5 | $22.50 |
| $191,055,000 | 6,368,500,000 | 3 | $45.00 |
| $222,897,500 | 6,368,500,000 | 3.5 | $52.50 |
| $254,740,000 | 6,368,500,000 | 4 | $60.00 |

**Based on 1,500 square feet for a single family residence. According to the National Association of Home Builders' analysis of census data, the median size of single family residences in the Western U.S is 1,680 sq. ft.*

A tax based on square footage is more similar to the District's existing and expired assessments than the flat per parcel tax as larger parcels pay a higher percentage of the overall revenue. Additionally, public opinion research conducted by LA County in December 2015 shows robust support for a measure of 3 cents per square foot. While the Needs Assessment Report has not been completed at this time, the population of Los Angeles County and costs related to building and maintaining the park infrastructure needed by the cities and communities have grown substantially as well since the original assessments were adopted, but there has been no corresponding increase in funding. Therefore a higher amount of revenue will need to be generated to reach the goal of the Board of Supervisors to fully fund the urgent needs identified by the Needs Assessment Report.

## Considerations for a Parcel Tax

There are considerations with regard to equity for each of these parcel tax structures. A flat per-parcel tax is the most common type of tax and straightforward for voters. This structure means that every property owner equally contributes to the benefits enjoyed by all of increased access to parks and open space. However that does mean that all property owners pay the same amount regardless of ability to pay. For example, with a flat per parcel tax, two parcels located within the boundaries of the same district would pay the same uniform-rate amount, regardless of whether the parcel includes a single family home or an apartment building with dozens of families.

A tax based on square footage places a higher cost on large parcels, more closely approximating the ability to pay of the owner, within the limits of the law. This would also mean that multi-unit properties are paying more than single family homes of a similar per unit size. Larger businesses with more employees who also benefit from the increased access to parks will pay a higher rate than a single family home as well. However, because parcel taxes are prohibited by law charging variable rates based on value, this method is only a rough approximation of ability to pay.

Proposing a tax with a relatively low annual cost, as described here, will help to minimize any potential hardship while providing essential funding to enhance local parks and recreation opportunities for residents of the communities throughout Los Angeles County.

# RECOMMENDATIONS & NEXT STEPS

This feasibility report is meant to inform the Los Angeles County Board of Supervisors and the Los Angeles County Regional Park and Open Space District in their consideration of new funding for parks and recreation opportunities by identifying potential funding mechanisms and determining the fiscal capacity and legal requirements of various approaches.

Both models under consideration, a uniform amount flat rate parcel tax and a uniform amount square footage parcel tax, are feasible, would provide significant funding to the district, and are within the authority of the County to place on the ballot.

Based on the analysis of this report, as well as initial polling results, our recommended option is the square footage parcel tax. This mechanism provides a more equitable method of raising funds within the limits of the law. Initial polling shows it is politically viable and that this mechanism is likely to more effectively meet the urgent funding needs identified by the Needs Assessment Report. Additionally, data gathered in a post-election survey of voters after the unsuccessful ballot measure in 2014 found that the flat-tax structure of Proposition P was a factor in deciding voting against the measure for around 3% of voters – a small number but close to the number needed to reach the 2/3 threshold. Alternatively, the Board could ask voters to approve a flat parcel tax.

We recommend further public opinion research, once the Needs Assessment Report is complete for a more detailed assessment of willingness to pay, as well as to understand voter preferences for the priorities that arise from that assessment and to refine ballot language.

Next steps should include:

- Crafting an appropriate model for using the County's taxing authority to place a measure on the ballot that will create a pass through funding source to the District. Consider amending the District's authorizing legislation in the future to allow it to utilize additional finance mechanisms and allow for specific exemptions (e.g. seniors).
- Identifying the total need for funding based on the park Needs Assessment Report being currently carried out by the County.
- Identifying a preferred funding mechanism.
- Conducting further public opinion research to assess the level of the recommended funding mechanism, test assumptions related to the willingness to pay, refine ballot language and test the priorities that come out of the Needs Assessment Report with voters.
- Finalize the project priorities for the measure based on the most urgent needs and the amount voters are willing to support.
- Finalize the ballot resolution including the funding mechanism and amount and the 75-word ballot question.

# APPENDICES

## Appendix A

## District Overview

### Los Angeles Regional Park and Open Space District Formation

The Los Angeles County Regional Park and Open Space District (District) was formed pursuant to the California Public Resources Code and the Landscaping and Lighting Act of 1972. The voters of Los Angeles County created the District when they approved Proposition A in the November 3, 1992, General Election. Proposition A authorized an annual assessment on nearly all of the 2.30 million parcels of real property in the county. The measure provided $540 million for the acquisition, restoration or rehabilitation of real property for parks and park safety, senior recreation facilities, gang prevention, beaches, recreation, community or cultural facilities, trails, wildlife habitats, or natural lands, and maintenance and servicing of those projects.

On November 5, 1996, the county's voters approved another Proposition A to fund an additional $319 million of parks and recreation projects and additional funds for maintenance and servicing of those projects.

The District is governed by the County of Los Angeles Board of Supervisors with the District's day-to-day operations administered by the County Department of Parks and Recreation.

### Revenue

The District's primary revenue source has been the assessments. Annual assessment revenue was approximately $80.5 million in 2014. The 1992 measure levied an assessment of approximately $12.50 per single family home[10] and generated roughly 65 percent of the annual assessment income (about $50 million). The assessments rates are "static" and do not include any provision for cost-of-living or inflation increases. The District does not receive any funding from the Los Angeles County general fund. The 1992 assessment expired in FY 2014-15, and the 1996 assessment will end in FY 2018-19. Total revenue through the end of both assessments is estimated at $1.72 billion.

| Los Angeles County Regional Park and Open Space District | | | | |
|---|---|---|---|---|
| Proposition | Per HH | % of total | Est. Revenue | Expiration |
| 1992 Assessment | $12.50 | 65% | $52,297,000.00 | FY2014-15 |
| 1996 Assessment | $6.78 | 35% | $28,737,000.00 | FY2018-19 |
| | $19.28 | | $81,034,000.00 | |
| *Revenue forecast through end of assessments: $1.725 billion* | | | | |

[10] Actual rates are benefit assessments for each property based on a complex formula that includes property type, lot size and proximity to parks among other factors.

# Appendix B

## Elections

As mentioned earlier in this report, roughly 60 percent of local conservation finance measures (52 of 86) on the ballot in California between 1990 and 2014 were approved.

**California Conservation Finance Measures Approved by Voters - 2005 - 2015**

| Jurisdiction Name | Date | Description | Finance Mechanism | Total Funds Approved | Conservation Funds Approved | % Yes |
|---|---|---|---|---|---|---|
| Midpeninsula Regional Open Space District | Jun-14 | Bond for open space preservation and habitat restoration | Bond | $174,000,000 | $174,000,000 | 68% |
| Novato | Apr-14 | Bond to protect meadow from development | Bond | $600,000 | $600,000 | 95% |
| California | Nov-14 | Bond to protect water quality, supply and infrastruct | Bond | $1,500,000,000 | $1,500,000,000 | 67% |
| San Luis Obispo | Nov-14 | 8-year, .5 percent sales tax extension for essential services including open space acquisition and maintenance | Sales tax | $2,600,000 | $2,600,000 | 70% |
| Santa Clara County Open Space Authority | Nov-14 | 15-year. $24 parcel tax for open space, wildlife habitat, farmland and other natural areas | Other | $43,500,000 | $43,500,000 | 68% |
| Marin County | Nov-12 | 9-year, .25 cent sales tax increase to fund parks, open space and farmland acquisitions | Sales tax | $30,000,000 | $30,000,000 | 74% |
| Mountains Recreation and Conservation Authority | Nov-12 | 10-year, $24 parcel tax for the protection of open space, habitat, and water quality in the east Santa Monica Mountains | Other | $1,702,500 | $1,702,500 | 76% |
| Mountains Recreation and Conservation Authority | Nov-12 | 10-year, $19 parcel tax for the protection of open space, habitat, and water quality in the west Santa Monica Mountains | Other | $762,500 | $762,500 | 69% |
| San Francisco | Nov-12 | Bond for park improvements and additions | Bond | $7,500,000 | $7,500,000 | 72% |
| Portola Valley | Nov-09 | 4-year, 2 percent utility tax renewal for open space purchases | Other | $984,000 | $984,000 | 66% |
| East Bay Regional Park District | Nov-08 | Bond for the purchase of parkland, trails, and other recreational land | Bond | $500,000,000 | $375,000,000 | 72% |
| Pasadena | Oct-08 | Creation of Annandale Canyon Open Space Benefit Assessment District | Benefit Assessme nt | $1,364,090 | $1,364,090 | 60% |
| San Francisco | Feb-08 | Bond for city park improvements | Bond | $185,000,000 | $5,000,000 | 71% |
| San Juan Capistrano | Nov-08 | Bond for the purchase of open space | Bond | $30,000,000 | $30,000,000 | 70% |
| Santa Clarita | Jul-07 | 30-year, $25 assessment on property owners for the creation of the City of Santa Clarita Open Space and Parkland Preservation District | Benefit Assessme nt | $46,683,000 | $46,683,000 | 63% |
| California | Nov-06 | Prop 84, Parks and water bond to improve drinking water, flood control, protection of coastlines, and state parks | Bond | $5,388,000,000 | $2,253,000,000 | 54% |
| California | Nov-06 | Prop. 1C, Housing bonds which include funding for public park acquisition | Bond | $2,850,000,000 | $400,000,000 | 58% |
| California | Nov-06 | Proposition 1E, Bond for disaster preparedness and flood prevention which includes the acquisition of land | Bond | $4,090,000,000 | $290,000,000 | 64% |
| Claremont | Nov-06 | Bond for the purchase of Johnson's Pasture | Bond | $12,500,000 | $12,500,000 | 71% |
| Orange County | Nov-06 | Measure M, 30-year extension of .5 cent sales tax for transportation purposes which includes funding for the preservation of areas of high ecological value including habitat | Sales tax | $11,800,000,000 | $244,000,000 | 70% |
| San Luis Obispo | Nov-06 | 10-year, .5 cent local sales tax increase for essential services including the protection of open space | Sales tax | $45,000,000 | $11,250,000 | 65% |
| Santa Clara County | Jun-06 | 12-year continuation of dedication of the equivalent of .01425 per $100 property tax for land acquisition, development, and maintenance of parkland | Other | $368,400,000 | $73,680,000 | 71% |
| Santa Monica | Nov-06 | $84 per single residential family unit parcel tax to implement the Watershed Management Plan | Parcel tax | $47,000,000 | $11,750,000 | 67% |
| Sonoma County Agricultural Preservation and Open Space District | Nov-06 | 20-year, continuation of a quarter-cent sales tax for open space, clean water, and farmland protection | Sales tax | $340,000,000 | $340,000,000 | 76% |
| Marinwood Community Services District | Mar-05 | Measure D, $75 dollar increase to $150 on each land parcel for parks, open space, and street landscape maintenance | Parcel tax | $5,200,000 | $1,800,000 | 71% |
| Portola Valley | Nov-05 | 4-year, extension of 2% utility tax to acquire and preserve open space | Other | $800,000 | $800,000 | 58% |

Source: Trust for Public Land, LandVote database. Includes only measures with some funding for land acquisition.

## Voter Registration

Los Angeles County has 4,843,670 registered voters.

## Timing

The established election dates in each year are as follows:

- The second Tuesday of April in each even-numbered year,
- The first Tuesday after the first Monday in March of each odd-numbered year,
- The first Tuesday after the first Monday in June of each year,
- The first Tuesday after the first Monday in November of each year.

At least 88 days prior to the date of the election, the governing board must call for an election and set forth the exact form of any question, proposition, or office to be voted upon at the election, as it is to appear on the ballot.[11] Deadlines for the November 2016 election are described in the table below.

| November 2016 Election Dates | | |
|---|---|---|
| **Date** | **Action Taken** | **CA Statute** |
| August 12 | Deadline to deliver resolution calling ballot measure election. (E-88) | EC 10403 |
| September 29 - October 18 | Counties mail sample ballots and voter pamplet (E-40 to E-21) | EC 13303-04; 13306 |
| November 8 | Election day | EC 1000 |

The November 2016 California ballot could be one of the most crowded in the past decade. Six statewide ballot propositions are currently eligible or qualified for the general election, but political strategists have identified at least 15 additional measures that are likely to go before voters next fall.

| Qualified/Eligible Statewide Ballot Measures - California November 2016 Election | | |
|---|---|---|
| **Title** | **Subject** | **Description** |
| Medi-Cal Hospital Reimbursement Initiative | Healthcare | Requires voter approval of changes to the hospital fee program |
| Multilingual Education Act | Education | Repeals Prop 227 of 1998, thus allowing for bilingual education in public schools |
| Plastic Bag Ban Referendum | Business | Ratifies SB 270, thus prohibiting plastic single-use carryout bags |
| Public Vote on Bonds Initiative | Elections and campaigns | Requires voter approval for projects that cost more than $2 billion funded by revenue bonds |
| Public Education Facilities Bond Initiative | Education | Authorizes issuance and sale of $9 billion in bonds for education and schools |
| Condoms in Pornographic Films Initiative | Adult entertainment | Requires the use of condoms in all pornographic films produced in California |

*Sources: Ballotpedia and California Secretary of State websites.*

[11] California Elections Code 10403

# Appendix C: Parcel Tax Summary

| Option | Description and Generating Potential | Process | Considerations |
|---|---|---|---|
| **Special Tax (per parcel)** | A parcel tax is a type of excise tax that usually is based on either a **flat per-parcel rate** *or* a **rate that is based upon the size and/or number of units** on each parcel. A parcel tax must be adopted as a special tax, and may be utilized by counties and special districts with the capacity to levy special taxes. | Requires 2/3rd approval by the Board of Supervisors and 2/3rd approval by county or district voters. | Would create a dedicated funding source for parks and open space that could be used for acquisition as well as development and maintenance purposes. |
| **Flat per parcel tax** | In Los Angeles County, a flat $34 per parcel tax levied on all property countywide would generate roughly $80 million in annual revenue. | | A flat tax is easier to understand – annual impact is known. Could raise equity concerns. |
| **Flat per-square-footage tax** | A tax of 3 cents per square foot (0.03) would generate approximately $191 million and would cost the average single-family homeowner about $45 per year.<br><br>These figures are only intended for illustration, county officials, assessors, and financial advisors would determine the exact structure and any exemptions for the tax. | | A square-footage tax is more similar to the current assessments, it is less common and is modeled on the County's Trauma Tax.<br><br>State law is unclear as to exemptions. |

# Appendix D: Other funding options

## Local Public Finance in California

All taxes imposed by local governments in California are either general taxes or special taxes.[12] ***General taxes*** may be imposed only by local governments for general government purposes and not by special purpose districts, such as school districts. An imposition, extension or increase of any general tax requires the approval of a majority of voters at a regularly scheduled general election for members of the governing body. Revenues from general taxes are deposited into the General Fund. ***Special taxes*** are imposed for specific purposes by counties, cities and special districts, and any imposition; extension or increase of a special tax must be approved by a two-thirds vote of the electorate.[13] Special districts may not impose general taxes. Taxes imposed by special districts are special taxes. Revenues from special taxes are deposited into segregated accounts restricted to the use for which they were imposed and collected.

The State of California authorizes communities to use various revenue sources for parks and recreation purposes including property-related taxes, sales and use taxes, general obligation bonds, the creation of financing districts that serve as financing mechanisms, and the creation of special districts. Each of these funding mechanisms requires approval by the electorate (or landowners in the case of special districts).

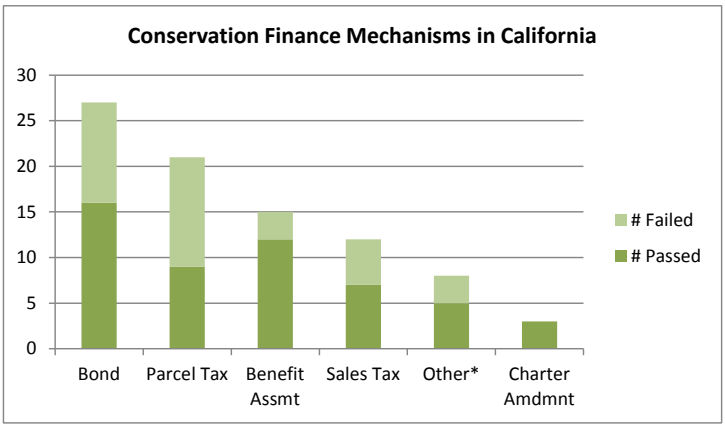
**Conservation Finance Mechanisms in California**

Summary of local ballot measures from 1990 - 2014

| Mechanism | # Passed | # Failed | % Passed |
|---|---|---|---|
| Bond | 16 | 11 | 59% |
| Parcel Tax | 9 | 12 | 43% |
| Benefit Assmt | 12 | 3 | 80% |
| Sales Tax | 7 | 5 | 58% |
| Other* | 5 | 3 | 63% |
| Charter Amdmnt | 3 | 0 | 100% |

**primarily utility taxes & occupancy taxes*

Source: TPL's LandVote database.




Roughly 60 percent of local conservation finance measures (52 of 86) on the ballot in California between 1990 and 2014 were approved. Success at the ballot is hampered somewhat in the state by the high approval threshold (2/3rds vote) required for local bond and special tax measures. For a list of successful land conservation measures, see Appendix A to this report.

The legislation authorizing the Los Angeles Park and Open Space District (Section 5506.9 of the California Public Resources Code) clearly contemplates that the district would be funded by a countywide benefit assessment. Renewal or extension of the current District assessment is not feasible due to the Santa Clara County court decision.

[12] Cal. Const. Art. XIIIC, Sect. 2 (Proposition 218, "the Right to Vote on Taxes Act," 1996); Cal. Government Code §§53720-53730.
[13] See Cal. Government Code §§50075-50077.5 (containing additional requirements for voter-approved special taxes).

Other finance mechanisms, such as special taxes and bonds, are authorized to regional park and open space districts under general law. Specifically, Public Resources Code section 5566 states: "It is the intent of the Legislature to provide a district with the authority to impose special taxes." However, the enabling legislation of the Los Angeles County Regional Park and Open Space District does not clearly delegate taxing authority to the District. Therefore, in the future, the County should consider an amendment to the enabling legislation to clarify the authority of the District to utilize other funding sources. In addition there are requirements for spending a certain portion of assessment revenue in the first 20 years (min. of 80 percent) on capital outlay projects, etc. The ballot resolution adopted by the Board of Supervisors authorizing a vote on any new funding stream will need to clearly outline spending allocations requires for a revenue that does not come from an assessment.

Given that the District does not have explicit legal authority to levy its own tax, Los Angeles County is authorized to levy special taxes and may transfer revenues to the District provided that the ballot language for the tax and resolution are clear to that purpose.

Counties have various mechanisms it can use for funding local priorities. Along with the two parcel tax options discussed in this report, other counties have used sales taxes and bonds to fund parks as well. Below is a summary of those alternatives and why they are not being considered for Los Angeles at this time.

## Sales and Use Tax

In California, the state sales tax is currently 6.50 percent which provides revenues for the general fund, the local revenue fund, and the local public safety fund.[14] In addition, counties and cities impose a uniform local 1.0 percent sales and use tax for a combined statewide rate of 7.50 percent.[15] Many of California's cities, counties, towns, and communities have special taxing jurisdictions (districts), which may impose a transactions (sales) and use tax. These districts increase the tax rate in a particular area by adding the district tax to the statewide rate. The rates for these districts range from 0.10 percent to 1.00 percent per district. More than one district tax may be in effect in a given location.[16]

In particular, local districts including counties may levy, increase or extend a transactions and use tax in increments of 0.125 percent. The ordinance authorizing the tax must be approved by 2/3rds of the governing body and either a majority or 2/3rds of voters depending upon whether revenues from the tax will be used for general or special purposes.[17] A county tax may be levied in the entire county or in the unincorporated area of the county.[18]

The total aggregate transactions and use taxes for all taxing districts in a county may not exceed two percent (for a total of 9.50 percent).[19] The proceeds of the transactions and use tax for

[14] Cal. Revenue and Taxation Code §6051, §6201; Cal. Const. Art. XIII, Sec. 35.
[15] Cal. Revenue and Taxation Code §7202(a), §7203 ("the Bradley-Burns Uniform Local Sales and Use Tax Law").
[16] Cal. Revenue and Taxation Code §7202(a), §7203 Food for home consumption and utilities are exempted from sales and use taxes..
[17] Cal. Revenue and Taxation Code §7285.
[18] Cal. Revenue and Taxation Code §7285.
[19] Id. at §7251.1. And http://info.sen.ca.gov/pub/bill/sen/sb_0551-0600/sb_566_cfa_20030910_013808_asm_floor.html. Prior to the passage of SB566 in 2003, cities had to first receive legislative approval to impose an additional sales tax.

specific purposes may be used to finance capital outlay expenditures through the issuance of bonds called limited tax bonds, which are explained in more detail later in this report.

Currently there are 164 approved transactions and use tax rates in 142 jurisdictions imposed for uses including libraries, transportation, hospitals, road, and capital improvements.[20] For example, Sonoma County imposes a 0.25 percent transaction and use tax to fund its agricultural preservation and open space authority. In 2012, voters in Marin County approved a 0.25 percent sales tax to support regional community parks projects and programs, and further farmland preservation.

## The sales tax in Los Angeles County

The District does not have the authority to impose a sales tax, however the county has limited capacity to levy an additional transactions and use tax and spend the funds for parks and open space. Three cities[21] are currently at the 2 percent aggregate tax limit; as such a countywide tax is not permissible. However, the county could seek approval from the legislature for authorization to levy a tax outside of the 2 percent maximum transaction and use tax limit.

## Using the sales tax for parks and open space

There is a total sales tax capacity of 1.0 percent remaining in Los Angeles County in the unincorporated area under the 2.0 percent limit. Therefore, the county could levy an additional transactions and use tax outside of the city boundaries and spend the funds for parks and open space. In order to dedicate the entire tax for this purpose the county would have to impose a special tax requiring a 2/3rds vote. The county could transfer revenue from the tax to the District.[22]

**Estimated Revenue and Cost of Transactions and Use Tax**

| Unicorporated County | | | |
|---|---|---|---|
| Sales Tax | Annual Revenue* | Household Spending on Taxable Goods** | Annual Cost/ Household |
| 0.0625% | $12,962,015 | $19,000 | $11.88 |
| 0.125% | $25,924,030 | $19,000 | $23.75 |
| 0.250% | $51,848,060 | $19,000 | $47.50 |
| **Countywide** | | | |
| Sales Tax | Annual Revenue* | Household Spending on Taxable Goods** | Annual Cost/ Household |
| 0.0625% | $87,549,818 | $19,000 | $11.88 |
| 0.125% | $175,099,635 | $19,000 | $23.75 |
| 0.250% | $350,199,270 | $19,000 | $47.50 |

**Estimates based on 2013 CA DOR total annual taxable sales of $20.7 billion unicorporated, and $140 billion countywide.*

***Average household spending on taxable items. LA County Econ. Dev. Corp.*

****Average household spending multiplied by est. # of households in the county (3.3 M).*

Based on 2013 estimates of total taxable transactions ($20.7 billion),[23] a 1/4th cent (0.25 percent) transactions and use tax increase levied in the unincorporated county for parks and open space would generate an estimated $52 million annually at a cost to the average household of $47 each year. If the tax were levied countywide, with authorization from the Legislature, a 1/8th cent would generate $175 million. The minimum tax increment currently allowed under state law is 1/8th- cent. However, the county could seek approval from the legislature for a different increment. For example, a 1/16th cent (0.0625 percent)

[20] From CaliforniaCityFinance.com, ***The Rise of Local Add On Taxes (Transaction and Use) in California, September 2013.***.
[21] La Mirada, Pica Rivera, and South Gate, California Board of Equalization, BOE-105 REV. 4 (7-15) District Taxes and Effective Dates.
[22] Alternatively, a change in state law would be needed in order for the District to put a sales tax on the ballot as a special tax.
[23] California Board of Equalization, http://www.boe.ca.gov.

tax, *if made permissible*, would generate $88 million at a cost to the average household of $12 per year.

### Implementation process

As with other California taxes, a transactions and use tax must obtain a majority vote if for general purposes and 2/3rds voter approval if for specific purposes.[24] The California Board of Equalization recommends that any county or district contemplating a transactions and use tax should begin by contacting its Local Revenue Allocation Section. Staff will assist with the preparatory functions for placing a proposal on the ballot to ensure the tax ordinance complies with law.

## Bonds

To raise funds for capital improvements, such as land acquisition or building construction, counties, cities and districts may issue bonds.[25] In California, there are three types of bonds: (1) general obligation ("GO") bonds, which are guaranteed by the local taxing authority; (2) revenue bonds that are paid by project-generated revenue or a dedicated revenue stream such as a particular tax or fee, and (3) limited tax bonds, which are paid by voter-approved transactions and use tax revenue. Generally, bond proceeds are limited to capital projects and may not be used for operations and maintenance purposes.[26] As such, this report will not examine bonding in further detail.

[24] In addition, all transaction and use tax proposals require 2.3rds approval by the governing body. CalifonriaCityFinance.com
[25] Cal. Public Resources Code §5305.
[26] Federal government rules governing the issuance of tax-exempt bonds limit the use of proceeds to capital purposes such that only a small fraction of bond funds may be used for maintenance or operations of facilities. State and local laws may further limit the use of bond proceeds.

# Appendix E

## Uniformity and Exemptions – Legal Challenge

Borikas v. Alameda Unified School District is a legal decision reached by the California Court of Appeals in 2012 with potentially far-reaching consequences for parcel tax levies throughout the state. The lawsuit arose as a result of a June 3, 2008 vote on a parcel tax measure (Measure H) in the Alameda Unified School District. The measure narrowly passed but it was challenged by a local businessman, and several others, who objected to the different rates charged homeowners and commercial property owners. Measure H charged residential property owners $120 each per parcel, while charging large commercial property owners $0.15 cents per square foot up to a cap of $9,500. The court concluded that state law requires "uniformity" in a parcel tax, i.e., a tax that will "apply uniformly to all taxpayers or all real property within the district."

The Borikas v. Alameda Unified School District opinion could be read broadly to apply to all types of countywide or district parcel taxes or narrowly to just school districts but the decision definitely has increased the risk of a legal challenge to a countywide or districtwide parcel tax.

On a similar note, California Government Code Section 5079 explicitly provides for exemptions to seniors and disabled for school district measures. While Section 5789.1 provides that recreation and park district "special taxes shall be applied uniformly to all taxpayers or all real property within the district, except that unimproved property may be taxed at a lower rate than improved parcels." As such, it appears that the County or the District may not include an exemption for seniors in a new special tax measure.

Research indicates that LA County imposes its special taxes on all property unless otherwise exempted by state or federal law. Generally, properties that fall under this exemption are owned by other governmental agencies (local, federal and state) including school districts, cities, counties, airport authorities, etc.

Legally, however, parcel tax exemptions are specifically authorized only for school districts (seniors and disabled) and parks (improved/unimproved land). However, numerous counties and special districts have placed on ballots approved by voters measures that contain additional exemptions. For example, East Bay Regional Park District (Alameda and Contra Costa Counties) parcel tax measures provide exemptions for (a) owners of real property that is unimproved and provides, (b) any occupant of any property who, for any reason, is legally exempt, and (c) a modified senior exemption of a 50% discount for an occupant who is a senior citizen (age 65 and over) whose annual income is below the State-defined poverty level.

Because statutes authorizing parcel taxes by non-school districts do not provide specifically for exemptions other than for improved/unimproved properties, there is risk of challenge that the tax is not uniformly levied if other exemptions have been authorized. The challenge has been somewhat tempered by ballot language drafting that requires the tax to be levied uniformly on all properties and allows certain owners of parcels to apply annually for an exemption (seniors and disabled). In addition, many ordinances have provided that said "annual" exemptions are available only to the "fullest extent permitted by law."

Due to legal questions, no exemptions are recommended for this measure. However exemptions found in numerous parcel tax measures include:

Senior Exemption. Properties owned and occupied by people age 65 years or older. Can be written so that it only applies to those who live on the property; meaning if a senior citizen owns a property that the parcel tax applies to, but does not live on that parcel, that senior citizen would still have to pay the tax.

Disability Exemption. Properties owned and occupied by people who receive Supplemental Security Income for a disability, regardless of age, often may obtain an exemption from parcel taxes. Other parcel tax ordinances/resolutions may offer an exemption for properties owned and occupied by those who receive Social Security Disability Insurance benefits, regardless of age, as long as the person's annual income does not exceed a certain threshold.

Contiguous Parcel Exemption. Multiple parcels that are contiguous, and are owned by one owner, may receive an exemption in which the contiguous parcels are treated as one for tax purposes. Some local governments apply the contiguous rule only to parcels owned by homeowners, and only if the homeowner lives on the property. Property owners may have to apply annually for exemptions by submitting forms to the city, county, special district, or other entity administering the tax. Some local governments that offer exemptions automatically grant an exemption to property owners who previously submitted an application. Applications for an exemption typically are available on a local government's website, where finance information is maintained.

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