



Office of the Mayor

CONSENT CALENDAR
May 23, 2023

To: Members of the City Council
From: Mayor Jesse Arreguín
Subject: Resolution to Support SB 532

RECOMMENDATION

Adopt a Resolution in support of Senate Bill 532, introduced by Senator Scott Weiner and coauthored by Assembly Member Phil Ting, and send a copy of the Resolution to Governor Gavin Newsom, State Senators Nancy Skinner and Scott Weiner, and Assembly Members Buffy Wicks and Phil Ting.

SUMMARY

Current law stipulates ballots used when voting on a measure proposed by a local governing body or submitted by the voters as an initiative or referendum measure must include a printed statement detailing the amount of money to be raised annually and the rate and duration of a local tax to be levied. If adopted, Assembly Bill 532 would amend Section 13119 of the Elections Code, allowing for an exemption to this requirement when a local measure imposes or increases a tax with more than one rate or authorizes the issuance of bonds. Instead, these types of measures would require the ballot to include an estimate of the amount of money to be raised annually and the rate and duration of the tax to be levied. Also, if adopted, there would be no word limit and statements could be provided in bullet point format. In addition, this bill would create a state-mandated local program that oversees the new duties on local elections officials conducting these estimates. If costs associated with mandating this bill are accrued and identified by the Commission on State Mandates, these costs will be reimbursed pursuant to existing statutory provisions included in the California Constitution.

BACKGROUND

For ballot measures that relate to new or increasing taxes, voters in California are provided with statements to educate them on the budgets to be raised throughout the duration of the tax. Local jurisdictions that submit a ballot measure that include more than one tax to be levied may find it difficult to precisely measure the amount that will be raised as one tax may influence the other and vice versa. In addition, the tax rate for bonds issued in multiple series under one voter approval may fluctuate significantly over time. Given the nuance of some of these local measures, voters can also benefit from a word limit being lifted. The current 75-word threshold may not be enough space for voter education to explain complex financial matters. This bill would ideally create greater voter transparency into the financial implications of ballot measure and leave

room for authors to also describe the benefit or non-financial impacts when raising these funds.

In 2015, the legislature enacted a law requiring 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” to be limited to 75 words. In 2017, the legislature passed further amendments applying the requirement to the issuance of bonds. However, transit agencies, school districts, cities, counties, hospitals, libraries, and other public entities that are legally required to rely on ballot measures to raise critical funds were found to be limited in their ability to describe complex tax and bond measures when written to fit a 75-word ballot label. In addition, whittling down a description to less than 75 words may cause voters to become misled or fill gaps of knowledge with their own assumptions, moving them away from understanding the full extent of the measure and its impacts. According to a statement from Senator Weiner’s office, many agencies had seen a decrease of 5 to 15 percentage points in their polling as a result of the aforementioned legislative changes.¹

SB 532 had originally been authored with language to allow for local jurisdictions to choose between pursuing the current word-limit or print the following in the ballot label: “See voter guide for measure information statement.” Furthermore, SB 532 would have required a local jurisdiction to describe to add further descriptions of the ballot measure in the voter guide depending on the type of financial measure. The Senate Governance And Finance and Senate Elections and Constitutional Committees provided amendments which removed these portions of the bill. The bill has since been re-referred to the Senate Appropriations Committee. The spirit of the bill is still maintained with its current amendments, and allows for the intended impact to be achieved by removing the word limit in the description of these related measures.

SB 532 is sponsored by the Nonprofit Housing Association of Northern California and the Coalition for Adequate School Housing. It is supported by San Diego Housing Federation, the California State Council of SEIU, and Urban Counties of California.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

No environmental impact.

CONTACT PERSON

Mayor Jesse Arreguín, 510-981-7100
Anthony Rodriguez, Senior Legislative Assistant

ATTACHMENTS

- 1: Resolution (SUPPORT OF CALIFORNIA SENATE BILL 532)
- 2: Text of SB 532 (as of April 25, 2023)

¹ <https://sd11.senate.ca.gov/news/20230215-senator-wiener-introduces-legislation-improve-transparency-financial-impacts-critical>

RESOLUTION NO. ##,###-N.S.

SUPPORTING SENATE BILL 441

WHEREAS, for ballot measures that relate to new or increasing taxes, voters in California are provided with statements to educate them on the budgets to be raised throughout the duration of the tax limited to 75-words; and

WHEREAS, the current 75-word limit requirements reduce the amount of space on the ballot label available to describe what the revenues raised by a measure would be used for; and

WHEREAS, these ballot label requirements can be confusing and misleading to voters; and

WHEREAS, the tax rate for bonds issued in multiple series under one voter approval may fluctuate significantly over time, thus making it difficult to predict; and

WHEREAS, SB 532 would amend Section 13119 of the Elections Code, allowing for an exemption to current requirements when a local measure imposes or increases a tax with more than one rate or authorizes the issuance of bonds, and allows for estimates in funds raised when more than one tax is increased or added as part of a ballot measure; and

WHEREAS, SB 532 would address a serious problem in current law that inhibits local tax mechanisms that cannot be accurately explained in the 75-word ballot label; and

WHEREAS, SB 532 expands transparency for local tax measures by providing the option to include key financial measures in the voter information guide, while amending ballot label requirements that have proven problematic or even impossible for tiered tax rates and bond issuances; and

WHEREAS, the City of Berkeley believes SB 532 is in-line with its commitment, to providing fair, impartial, and knowledgeable elections to all its residents; and

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that it hereby supports SB 532.

BE IT FRUTHER RESOLVED that copies of the Resolution be sent to Governor Gavin Newsom, State Senators Nancy Skinner and Scott Weiner, and Assembly Members Buffy Wicks and Phil Ting.

AMENDED IN SENATE APRIL 25, 2023

AMENDED IN SENATE APRIL 13, 2023

AMENDED IN SENATE MARCH 30, 2023

SENATE BILL

No. 532

Introduced by Senator Wiener
(Coauthor: Assembly Member Ting)

February 14, 2023

An act to amend Sections 9401, 9403, 9405, and Section 13119 of, to amend the heading of Chapter 5 (commencing with Section 9400) of Division 9 of, to add Section 9406 to, and to repeal and add Section 9400 of, of the Elections Code, relating to elections.

LEGISLATIVE COUNSEL'S DIGEST

SB 532, as amended, Wiener. Ballot measures: local taxes.

Existing law requires that the ballots used when voting upon a measure proposed by a local governing body or submitted to the voters as an initiative or referendum measure, including a measure authorizing the issuance of bonds or the incurrence of debt, have printed on them a true and impartial statement describing the purpose of the measure. If the proposed measure imposes a tax or raises the rate of a tax, existing law requires the ballot to include in the statement of the measure the amount of money to be raised annually and the rate and duration of the tax to be levied.

This bill would exempt from this requirement a measure that imposes or increases a tax with more than one rate or authorizes the issuance of bonds. The bill would instead permit for these types of measures the statement of the measure to include the words "See voter guide for measure information statement and an explanation of how this measure

could impact local property taxes.” The bill would exclude these words from any word count limit that applies to the statement of the measure. The bill would require an elections official to ensure that each polling place has voter information guides, as specified. *If the proposed measure imposes or increases a tax with more than one rate, or authorizes the issuance of bonds, this bill would require that the ballot include in the statement of the measure to be voted on an estimate of the amount of money to be raised annually and the rate and the duration of the tax to be levied. This statement, which may contain bullet points, would not count toward any word limit that applies to the statement of the measure.*

Existing law requires local governments, when submitting for voter approval a bond measure that will be secured by an ad valorem tax, to provide the voters with a statement that includes estimates of the tax rates required to fund the measure.

~~This bill would additionally require for a measure that imposes or increases a tax with more than one rate or authorizes the issuance of bonds, that voters be provided with a statement that includes specified information relating to the tax that will be imposed or increased as a result of the measure.~~

By imposing new duties on local elections officials, the bill would create 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 the statutory provisions noted above.

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 9400 of the Elections Code is repealed.~~

2 ~~SEC. 2. The heading of Chapter 5 (commencing with Section~~
3 ~~9400) of Division 9 of the Elections Code is amended to read:~~

4

5 ~~CHAPTER 5. LOCAL TAX OR BOND MEASURES~~

6

7 ~~SEC. 3. Section 9400 is added to the Elections Code, to read:~~

1 9400. ~~(a) For each tax measure specified in paragraph (3) of~~
 2 ~~subdivision (b) of Section 13119, a measure information statement~~
 3 ~~shall be mailed to the voters, or electronically submitted to the~~
 4 ~~voters pursuant to Section 13300.7, with the sample ballot for the~~
 5 ~~election to authorize the tax. The measure information statement~~
 6 ~~required by this section shall be filed with the elections official~~
 7 ~~conducting the election not later than the 88th day before the~~
 8 ~~election, and it shall include all of the following:~~

9 (1) ~~A concise description of the purpose of the tax proposed,~~
 10 ~~including how the bond proceeds or tax revenue will be spent to~~
 11 ~~benefit the community.~~

12 (2) ~~If the measure imposes a tax expected to have more than~~
 13 ~~one tax rate, a list of all the tax rates that are expected to apply and~~
 14 ~~a description of how the tax will be imposed.~~

15 (3) ~~A plain language description of any mechanism that would~~
 16 ~~cause the tax rate or rates to vary over time.~~

17 (4) ~~An explanation of the duration of the tax stating whether~~
 18 ~~the tax expires on a specific date, expires upon final payment of~~
 19 ~~indebtedness, does not expire until further action by the voters or~~
 20 ~~the local governing body, or expires as the result of some other~~
 21 ~~action or occurrence.~~

22 (5) ~~Except if the information specified in paragraph (6) of this~~
 23 ~~subdivision is included, the best estimate from official sources of~~
 24 ~~the average annual dollar amount of taxes that would be collected~~
 25 ~~during the ten-year period following the initial levy.~~

26 (6) ~~If the tax measure would authorize the issuance of bonds,~~
 27 ~~the security for which constitutes a lien on the property for ad~~
 28 ~~valorem taxes within the jurisdiction, all the disclosures required~~
 29 ~~by Section 9401.~~

30 (b) ~~For purposes of an election to approve a tax under the~~
 31 ~~Mello-Roos Community Facilities Act of 1982, Chapter 2.5~~
 32 ~~(commencing with Section 53311) of Part 1 of Division 2 of Title~~
 33 ~~5 of the Government Code, or a charter city's authority under~~
 34 ~~Section 5 of Article XI of the California Constitution, the statement~~
 35 ~~required by subdivision (a) may consist entirely of a complete~~
 36 ~~copy of the report and resolution of formation described in Sections~~
 37 ~~53321.5 and 53325.1 of the Government Code, or, in the case of~~
 38 ~~a charter city, the applicable charter or ordinance provision.~~

39 SEC. 4. ~~Section 9401 of the Elections Code is amended to read:~~

1 9401. ~~(a) In connection with each bond issue proposed by a~~
2 ~~county, city and county, city, school district, community college~~
3 ~~district, or special district, or by any agency, department, or board~~
4 ~~thereof, the security for which constitutes a lien on the property~~
5 ~~for ad valorem taxes within the jurisdiction and the proposal for~~
6 ~~which is required to be submitted to the voters for approval, a~~
7 ~~measure information statement, which shall be combined with any~~
8 ~~measure information statement required by Section 9400, shall be~~
9 ~~mailed to the voters, or electronically transmitted to the voters~~
10 ~~pursuant to Section 13300.7, with the sample ballot for the bond~~
11 ~~election. The measure information statement required by this~~
12 ~~section shall be filed with the elections official conducting the~~
13 ~~election not later than the 88th day before the election, and shall~~
14 ~~include all of the following:~~

15 ~~(1) The best estimate from official sources of the average annual~~
16 ~~tax rate that would be required to be levied to fund that bond issue~~
17 ~~over the entire duration of the bond debt service, based on assessed~~
18 ~~valuations available at the time of the election or a projection based~~
19 ~~on experience within the same jurisdiction or other demonstrable~~
20 ~~factors. The estimate shall also identify the final fiscal year in~~
21 ~~which the tax is anticipated to be collected.~~

22 ~~(2) The best estimate from official sources of the highest tax~~
23 ~~rate that would be required to be levied to fund that bond issue,~~
24 ~~and an estimate of the year in which that rate will apply, based on~~
25 ~~assessed valuations available at the time of the election or a~~
26 ~~projection based on experience within the same jurisdiction or~~
27 ~~other demonstrable factors.~~

28 ~~(3) The best estimate from official sources of the total debt~~
29 ~~service, including the principal and interest, that would be required~~
30 ~~to be repaid if all the bonds are issued and sold. The estimate may~~
31 ~~include information about the assumptions used to determine the~~
32 ~~estimate.~~

33 ~~(b) In addition, the statement may contain a declaration of policy~~
34 ~~of the legislative or governing body of the applicable jurisdiction,~~
35 ~~proposing to use revenues other than ad valorem taxes to fund the~~
36 ~~bond issue, and the best estimate from official sources of these~~
37 ~~revenues and the reduction in the tax rate levied to fund the bond~~
38 ~~issue resulting from the substitution of revenue.~~

1 ~~(e) The words “tax rate” as used in this chapter means tax rate~~
2 ~~per one hundred dollars (\$100) of assessed valuation on all property~~
3 ~~to be taxed to fund a bond issue described in Section 9400.~~

4 ~~SEC. 5. Section 9403 of the Elections Code is amended to read:~~
5 ~~9403. Failure to comply with this chapter does not affect the~~
6 ~~validity of either of the following:~~

7 ~~(a) A bond issue following the sale and delivery of the bonds.~~

8 ~~(b) A tax following its initial imposition.~~

9 ~~SEC. 6. Section 9405 of the Elections Code is amended to read:~~

10 ~~9405. (a) If the elections official is required to mail a measure~~
11 ~~information statement, as provided in Section 9400 or 9401, only~~
12 ~~one copy of the measure information statement shall be mailed to~~
13 ~~a postal address where two or more registered voters have the same~~
14 ~~surname and the same postal address, or the measure information~~
15 ~~statement may be transmitted electronically pursuant to Section~~
16 ~~13300.7.~~

17 ~~(b) This section only applies if the legislative body adopts this~~
18 ~~section and the election official conducting the election approves~~
19 ~~of the procedure.~~

20 ~~SEC. 7. Section 9406 is added to the Elections Code, to read:~~

21 ~~9406. An estimate or projection made in the measure~~
22 ~~information statement required pursuant to Section 9400 or 9401~~
23 ~~shall not restrict or limit the tax imposed in accordance with the~~
24 ~~measure.~~

25 ~~SEC. 8.~~

26 ~~SECTION 1. Section 13119 of the Elections Code is amended~~
27 ~~to read:~~

28 ~~13119. (a) The ballots used when voting upon a measure~~
29 ~~proposed by a local governing body or submitted to the voters as~~
30 ~~an initiative or referendum measure pursuant to Division 9~~
31 ~~(commencing with Section 9000) shall have printed on them the~~
32 ~~words “Shall the measure (stating the nature thereof) be adopted?”~~
33 ~~To the right or below the statement of the measure to be voted on,~~
34 ~~the words “Yes” and “No” shall be printed on separate lines, with~~
35 ~~voting targets. If a voter marks the voting target next to the printed~~
36 ~~word “Yes,” the voter’s vote shall be counted in favor of the~~
37 ~~adoption of the measure. If a voter marks the voting target next to~~
38 ~~the printed word “No,” the voter’s vote shall be counted against~~
39 ~~its adoption.~~

1 (b) (1) Except for a measure described in paragraph (2), if the
2 proposed measure imposes a tax or raises the rate of a tax, the
3 ballot shall include in the statement of the measure to be voted on
4 an estimate of the amount of money to be raised annually and the
5 rate and duration of the tax to be levied.

6 (2) *If the proposed measure imposes or increases a tax with*
7 *more than one rate, or authorizes the issuance of bonds, the ballot*
8 *shall include in the statement of the measure to be voted on a fiscal*
9 *disclosure that includes an estimate of the amount of money to be*
10 *raised annually and the rate and duration of the tax to be levied.*

11 (3) *This fiscal disclosure in paragraph (2), which may contain*
12 *bullet points, does not count toward any word limit that applies*
13 *to the statement of the measure.*

14 ~~(2) If the proposed measure imposes or increases a tax with~~
15 ~~more than one rate, or authorizes the issuance of bonds, the~~
16 ~~jurisdiction submitting the measure to the voters, or, in the case~~
17 ~~of an initiative measure, the proponents, shall, not later than 88~~
18 ~~days before the election, inform the elections official conducting~~
19 ~~the election which of the following shall be included in or~~
20 ~~immediately following, as applicable, the statement of the measure:~~

21 (A) ~~The estimate, rate, and duration information described in~~
22 ~~paragraph (1).~~

23 (B) ~~The phrase “See voter guide for measure information~~
24 ~~statement and an explanation of how this measure could impact~~
25 ~~local property taxes.”~~

26 (3) ~~If the statement of the measure is to include the phrase~~
27 ~~provided for in subparagraph (B) of paragraph (2), the~~
28 ~~specifications of the election order for the measure, or, in the case~~
29 ~~of an initiative measure, the full text of the measure itself, shall~~
30 ~~include a statement of the reasons for selecting the inclusion of~~
31 ~~the phrase provided for in subparagraph (B) of paragraph (2).~~

32 (4) ~~If the elections official is informed that the statement of the~~
33 ~~measure shall include the phrase contained in subparagraph (B)~~
34 ~~of paragraph (2), the requirements of Section 9400 apply to the~~
35 ~~measure, and the 19 words of the phrase shall not count toward~~
36 ~~any word limit that applies to the statement of the measure.~~

37 (c) The statement of the measure shall be a true and impartial
38 synopsis of the purpose of the proposed measure, and shall be in
39 language that is neither argumentative nor likely to create prejudice
40 for or against the measure.

1 (d) Any estimate or projection included in the statement of the
2 measure pursuant to this section, or included in the ~~statements~~
3 *statement* required pursuant to Section ~~9400~~ or 9401, shall not
4 restrict or limit the tax imposed in accordance with the measure.

5 (e) For purposes of this section, the following definitions apply:

6 (1) “Local governing body” means the governing body of a city,
7 county, city and county, including a charter city or charter county,
8 or district, including a school district.

9 (2) “Target” means an object designated as the aim for a voter
10 to make a vote selection.

11 ~~(f) The elections official shall ensure that each polling place~~
12 ~~has voter information guides as required by Section 19323.~~

13 ~~SEC. 9.~~

14 *SEC. 2.* If the Commission on State Mandates determines that
15 this act contains costs mandated by the state, reimbursement to
16 local agencies and school districts for those costs shall be made
17 pursuant to Part 7 (commencing with Section 17500) of Division
18 4 of Title 2 of the Government Code.

19 ~~SEC. 10.~~

20 *SEC. 3.* It is the intent of the Legislature that elections officials
21 prepare ballot materials for the March 5, 2024, primary election
22 in compliance with this act.