

# 39

## SCHOOL FACILITIES. 55% LOCAL VOTE. BONDS, TAXES. ACCOUNTABILITY REQUIREMENTS. Initiative Constitutional Amendment and Statute.

### Official Title and Summary Prepared by the Attorney General

#### SCHOOL FACILITIES. 55% LOCAL VOTE. BONDS, TAXES. ACCOUNTABILITY REQUIREMENTS.

Initiative Constitutional Amendment and Statute.

- Authorizes bonds for repair, construction or replacement of school facilities, classrooms, if approved by 55% local vote for projects evaluated by schools, community college districts, county education offices for safety, class size, and information technology needs.
- Accountability requirements include annual performance and financial audits on use of bond proceeds.
- Prohibits use of bond proceeds for salaries or operating expenses.
- Requires facilities for public charter schools.
- Authorizes property taxes in excess of 1% limit by 55% vote, rather than current two-thirds, as necessary to pay school bonds.

#### Summary of Legislative Analyst's Estimate of Net State and Local Government Fiscal Impact:

- Increased debt costs for many school districts, depending on local voter approval of future school bond issues (these costs would vary by individual district). District costs throughout the state could total in the hundreds of millions of dollars each year within a decade.
- Potential longer-term state savings to the extent local school districts assume greater responsibility for funding school facilities.

### Analysis by the Legislative Analyst

#### BACKGROUND

##### Property Taxes

The California Constitution limits property taxes to 1 percent of the value of property. Property taxes may only exceed this limit to pay for (1) any local government debts approved by the voters prior to July 1, 1978 or (2) bonds to buy or improve real property that receive two-thirds voter approval after July 1, 1978.

##### School Facilities

*Kindergarten Through Twelfth Grade (K-12).* California public school facilities are the responsibility of over 1,000 school districts and county offices of education. Over the years, the state has provided a significant portion of the funding for these facilities through the state schools facilities program. Most recently, this program was funded with \$6.7 billion in state general obligation bonds approved by the voters in November 1998.

Under this program, the state generally pays:

- 50 percent of the cost of new school facilities.
- 80 percent of the cost of modernizing existing facilities.
- 100 percent of the cost of either new facilities or modernization in "hardship cases."

In addition to state bonds, funding for school facilities has been provided from a variety of other sources, including:

- School district general obligation bonds.
- Special local bonds (known as "Mello-Roos" bonds).
- Fees that school districts charge builders on new residential, commercial, and industrial construction.

*Community Colleges.* Community colleges are part of the state's higher education system and include 107 campuses operated by 72

local districts. Their facilities are funded differently than K-12 schools. In recent years, most facilities for community colleges have been funded 100 percent by the state, generally using state bonds. The state funds are available only if appropriated by the Legislature for the specific facility. There is no requirement that local community college districts provide a portion of the funding in order to obtain state funds. However, community college districts may fund construction of facilities with local general obligation bonds or other nonstate funds if they so choose.

##### Charter Schools

Charter schools are independent public schools formed by teachers, parents, and other individuals and/or groups. The schools function under contracts or "charters" with local school districts, county boards of education, or the State Board of Education. They are exempt from most state laws and regulations affecting public schools.

As of June 2000, there were 309 charter schools in California, serving about 105,000 students (less than 2 percent of all K-12 students). The law permits an additional 100 charter schools each year until 2003, at which time the charter school program will be reviewed by the Legislature. Under current law, school districts must allow charter schools to use, at no charge, facilities not currently used by the district for instructional or administrative purposes.

#### PROPOSAL

##### Provisions of the Proposition

This proposition (1) changes the State Constitution to lower the voting requirement for passage of local school bonds and (2) changes existing statutory law regarding charter school facilities.

The constitutional amendments could be changed only with another statewide vote of the people. The statutory provisions could be changed by a majority vote of both houses of the Legislature and approval by the Governor, but only to further the purposes of the proposition. The local school jurisdictions affected by this proposition are K–12 school districts, community college districts, and county offices of education.

**Change in the Voting Requirement.** This proposition allows (1) school facilities bond measures to be approved by *55 percent* (rather than *two-thirds*) of the voters in local elections and (2) property taxes to exceed the current 1 percent limit in order to repay the bonds.

This 55 percent vote requirement would apply only if the local bond measure presented to the voters includes:

- A requirement that the bond funds can be used only for construction, rehabilitation, equipping of school facilities, or the acquisition or lease of real property for school facilities.
- A specific list of school projects to be funded and certification that the school board has evaluated safety, class size reduction, and information technology needs in developing the list.
- A requirement that the school board conduct annual, independent financial and performance audits until all bond funds have been spent to ensure that the bond funds have been used only for the projects listed in the measure.

**Charter School Facilities.** This proposition requires each local K–12 school district to provide charter school facilities sufficient to accommodate the charter school's students. The district, however, would not be required to spend its general discretionary revenues to provide these facilities for charter schools. Instead, the district could choose to use these or other revenues—including state and local bonds. The proposition also provides that:

- The facilities must be reasonably equivalent to the district schools that these students would otherwise attend.
- The district may charge the charter school for its facilities if district discretionary revenues are used to fund the facilities.
- A district may decline to provide facilities for a charter school with a current or projected enrollment of fewer than 80 students.

#### Provisions of Related Legislation

Legislation approved in June 2000 would place certain limitations on local school bonds to be approved by 55 percent of the voters. The provisions of the law, however, would take effect only if this proposition is approved by the voters. These provisions require that:

- Two-thirds of the governing board of a school district or community college district approve placing a bond issue on the ballot. (Current law requires a majority vote.)
- The bond proposal be included on the ballot of a statewide primary or general election, a regularly scheduled local election, or a statewide special election. (Currently, school boards can hold bond elections throughout the year.)
- The tax rate levied as the result of any single election be no more than \$60 (for a unified school district), \$30 (for a school district), or \$25 (for a community college district), per \$100,000 of taxable property value. (Current law does not have this type of restriction.)
- The governing board of a school district or community college district appoint a citizens' oversight committee to inform the public concerning the spending of the bond revenues. (Existing law does not require appointment of an oversight committee.)

These requirements are not part of this proposition and can be changed with a majority vote of both houses of the Legislature and approval by the Governor.

#### FISCAL EFFECT

##### Local School Impact

This proposition would make it easier for school bonds to be approved by local voters. For example, between 1986 and June 2000:

- **K–12 Schools.** K–12 bond measures totaling over \$18 billion received the necessary two-thirds voter approval. During the

same period, however, over \$13 billion of bonds received over 55 percent but less than two-thirds voter approval and therefore were defeated.

- **Community Colleges.** Local community college bond measures totaling almost \$235 million received the necessary two-thirds voter approval. During the same period, though, \$579 million of bonds received over 55 percent but less than two-thirds voter approval and therefore were defeated.

Districts approving bond measures that otherwise would not have been approved would have increased debt costs to pay off the bonds. The cost to any particular district would depend primarily on the size of the bond issue. (See box for the impact on a typical property owner.) The total cost for all districts throughout the state, however, could be in the hundreds of millions of dollars annually within a decade.

#### How Would the Proposition Affect the Average Homeowner?

As noted in the text, this proposition would only have an impact on property owners in cases where a school district bond issue is approved by less than two-thirds but at least 55 percent of the voters. In these instances, the impact on a property owner (business or homeowner) would depend on two factors: (1) the tax rate "add-on" needed to pay the debt on the bonds and (2) the assessed value of a particular property.

The following illustrates the possible impact of the proposition. A homeowner lives in a unified school district that places a bond before the voters. The bond is approved with a 58 percent vote and the size of the bond requires a tax rate levy of \$60 per each \$100,000 of assessed value. If the assessed value of the owner's home is the statewide average (about \$170,000), the owner would pay about \$100 in additional property taxes each year for the life of the bond (typically between 20 and 30 years).

#### State Impact

The proposition's impact on state costs is less certain. In the near term, it could have varied effects on demand for state bond funds. For instance, if more local bonds are approved, fewer local jurisdictions would qualify for hardship funding by the state. In this case, state funding would be reduced from 100 percent to 50 percent of the cost for a new local school. On the other hand, there are over 500 school jurisdictions that do not currently participate in the state school facilities program. To the extent the reduced voter-approval requirement encourages some of these districts to participate in the state program, demand for state bond funds would increase.

In the longer run, the proposition could have a more significant fiscal impact on the state. For instance, if local districts assume greater funding responsibility for school facilities, the state's debt service costs would decline over time.

The actual impact on state costs ultimately would depend on the level of state bonds placed on the ballot in future years by the Legislature and the Governor, and voters' decisions on those bond measures.

#### Charter Schools

The requirement that K–12 school districts provide charter schools with comparable facilities could increase state and local costs. As discussed above, districts are currently required to provide facilities for charter schools only if unused district facilities are available. The proposition might lead many districts to increase the size of their bond issues somewhat to cover the cost of facilities for charter schools. This could also increase state costs to the extent districts apply for and receive state matching funds. The amount of this increase is unknown, as it would depend on the availability of existing facilities and the number and types of charter schools.

For text of Proposition 39 see page 73.

# 39 SCHOOL FACILITIES. 55% LOCAL VOTE. BONDS, TAXES. ACCOUNTABILITY REQUIREMENTS. Initiative Constitutional Amendment and Statute.

## Argument in Favor of Proposition 39

### FIX CLASSROOMS.

#### FIX THE WAY SCHOOLS SPEND MONEY.

Taxpayers, seniors, teachers, businesses, and parents agree: If we vote "YES" on Proposition 39, we can fix the way our schools spend money AND fix our schools!

We're all aware of financial abuses in some of our schools—the waste, bureaucracy and mismanagement. If we're going to make California's schools among the best in the nation, we must make our schools accountable for the way they spend our tax dollars.

#### PASSING PROP. 39 WILL:

#### HOLD ADMINISTRATORS ACCOUNTABLE FOR SPENDING SCHOOL BOND CONSTRUCTION MONEY:

- Prohibit using funds for administration or bureaucracy.
- Require school administrators to produce a detailed list of specific school construction and repair projects to be funded.
- Require schools to undergo two rigid, independent financial and performance audits every year.
- Require bonds to be passed by a tough 55% super-majority vote.

#### ADD MORE PROTECTION FOR TAXPAYERS AND HOMEOWNERS:

When Prop. 39 passes, legislation automatically goes into effect that:

- Mandates citizen watchdog committees of local taxpayers, homeowners, parents and business leaders to make sure the money is not wasted.
- Empowers watchdog committees to stop any project if audits show wasteful or unauthorized spending, inform the public of abuse or waste and vigorously investigate and prosecute violations.
- Prohibits these bond votes except at regularly scheduled elections.
- Caps and limits how much property taxes can be raised by a local school bond.

"Proposition 39 and supporting legislation impose a strict cap on property tax increases which may result from an election held

under the provisions of this initiative. For an average California home, the cost would be less than \$100 per year. Based on my thorough analysis, the claim of a 'doubling of property tax' is significantly overstated and historically inaccurate."

Thomas W. Hayes, Former State Treasurer and Auditor General  
HELP FIX OUR SCHOOLS.

- Our classrooms are overcrowded—California has more students per classroom than any other state except one.
- If we're going to reduce class size, we've got to build more classrooms. Just to keep up with the school population growth expected over the next ten years, experts say we'll need 20,000 new classrooms.
- Students in some districts go to class in trailers or in cafeterias, libraries and gyms that have been converted to classrooms.
- Many schools need repairs and updating so children can use computers and get connected to the Internet where they can learn to use the tools they will need to succeed in the future.

"This initiative helps fix classroom overcrowding and provides much needed repairs of unsafe and outdated schools. It mandates the strictest accountability requirements to ensure that bond funds are spent only on schools and classrooms, protecting taxpayers."

Gail D. Dryden, President, League of Women Voters of California  
JOIN GOVERNOR GRAY DAVIS AND FORMER GOVERNOR PETE WILSON, SENIORS, TEACHERS, PARENTS, BUSINESS AND COMMUNITY LEADERS, TAXPAYERS, LABOR, ETHNIC AND PUBLIC SAFETY ORGANIZATIONS:

VOTE YES ON PROPOSITION 39.

LAVONNE McBROOM, *President*

*California State PTA*

JACQUELINE N. ANTEE

*AARP State President*

ALLAN ZAREMBERG, *President*

*California Chamber of Commerce*

## Rebuttal to Argument in Favor of Proposition 39

Incredible! The very heart of the Arguments FOR Proposition 39 are about provisions NOT IN PROPOSITION 39!

#### Provisions NOT IN 39:

- NO watchdog committees.
- NO election rules.
- NO limits on property tax increases.

The ENTIRE SECTION titled "More Protections for Taxpayers and Homeowners" is NOT IN 39! These provisions were added by 39's promoters in the Legislature AFTER 39 was filed. They can be removed or changed anytime WITHOUT VOTER APPROVAL.

United States Justice Foundation Executive Director Gary Kreep certifies:

"The Watchdog Committees, Election Rules and Tax Limitations referenced in the promoters' Arguments are not in 39. Therefore, these provisions may be waived anytime without voter approval."

These "Special Provisions" risks are unnecessary! GOOD BONDS PASS NOW. Since 1996, 62% passed, with two-thirds voter approval. \$13 Billion worth! Do you *really* want every bond, good or bad, approved? Each bond creates a new lien on your home, usually for 30 years.

Remember, PROPOSITION 39 has NO PROPERTY TAX LIMITS.  
Meaning:

"Proposition 39 could realistically lead to actions more than doubling current property taxes, putting them back to pre-1978 levels."

Joseph Skeehan, Certified Public Accountant

Join seniors, educators, parents, small businesses, newspapers, Democrats, Republicans, Independents, homeowners and renters throughout California.

HELP SAVE OUR HOMES.

VOTE NO ON PROPOSITION 39.

GIL A. PEREZ

*Retired School District Administrator*

JOAN C. LONGOBARDO, *Governing Board Member*

*Covina-Valley Unified School District*

Does promoters' Rebuttal, to right, raise questions? Have other questions? Want to help Save Our Homes? Get answers NOW. Visit: SaveOurHomes.com. We, 39's opponents, wrote "NOTICE TO VOTERS", which follows, to help voters understand 39's "Special Provisions" risks.

JON COUPAL, *Chairman*

*Save Our Homes Committee, Vote No on Proposition 39,  
a Project of the Howard Jarvis Taxpayers Association*

## Argument Against Proposition 39

**NOTICE TO VOTERS:** After Proposition 39 was filed, its promoters introduced a special law in the Legislature adding provisions which only take effect if Proposition 39 passes. Therefore, all the changes which will occur if 39 passes are not in Proposition 39 itself. These added provisions DO NOT appear in *Proposition 39: Text of the Proposed Law* in this Voter Information Guide. If Proposition 39 passes, these added "Special Provisions" could be changed or revoked anytime in the future without voter approval.

### ARGUMENTS AGAINST PROPOSITION 39:

The "Special Provisions," dealing with critically important tax increase and accountability issues, were either added because of drafting errors, or because the promoters wanted to be free to make changes after the election without voter approval.

In either case, these "Special Provisions" create huge risks. What changes will be made later WITHOUT VOTER APPROVAL?

These "Special Provisions" risks are reason enough to reject Proposition 39.

However, Proposition 39 is also misleading. It says it's about schools. Actually it's about your home and your taxes.

### What Proposition 39 does:

1. Permits local bond passage with 55% votes instead of the current two-thirds vote requirement. There is NO LIMIT on how much property taxes can eventually increase with passage of 55% bonds.

2. Ends our Constitution's 121 year old provision requiring a two-thirds vote on local bonds. These bonds put liens on your home, usually for 30 years. Tax collectors foreclose if homeowners cannot pay. Prior to voter approved property tax limitations in 1978, excessive taxes often forced home sales.

3. Proposition 39 bonds increase apartment taxes. Landlords may increase rents to pay these taxes.

4. Proposition 39 bonds require taxpayers in the poorest districts to pay tax rates about twenty times higher (and taxpayers in typical districts to pay about five times higher) than taxpayers in the richest districts to raise the same amount per student.

What Proposition 39 DOES NOT do:

1. DOES NOT require student performance improvements.
2. DOES NOT require parental or taxpayer oversight.

Campaign:

Proposition 39's wealthy promoters reportedly pledged \$30 million. We cannot match their money. But, we outnumber them, so we can win. Pledge your help now. Visit [saveourhomes.com](http://saveourhomes.com) or call (toll-free) 1-866-VOTE39NO (1-866-868-3396).

55% risks:

In 1978, property taxes were 2.6 times higher. Could history repeat? Could property taxes return to twice, even three times today's levels? Once started, 55% bonds won't stop here. Every government agency will demand 55%. PROPOSITION 39 PROVIDES NO TAX LIMITS. So, yes, 55% could lead to further actions which eventually double, even triple, property taxes.

Conclusion:

Don't risk the "Special Provisions" without voter control.

Don't risk unlimited property tax increases.

Don't risk starting 55% bonds for all government agencies.

Don't risk new 30 year homeowner liens.

Don't risk higher rents.

Don't encourage putting the highest tax rates on the poorest districts.

And, don't give up our Constitution's two-thirds vote requirement to increase property taxes.

Help Save Our Homes. Please VOTE NO ON PROPOSITION 39.

JON COUPAL, *Chairman*

*Save Our Homes Committee, Vote No on Proposition 39,  
a Project of the Howard Jarvis Taxpayers Association*

DEAN ANDAL, *Chairman*

*Board of Equalization, State of California*

FELICIA ELKINSON, *Past President*

*Council of Sacramento Senior Organizations*

## Rebuttal to Argument Against Proposition 39

Strong accountability and taxpayer protections in 39 and the "special provisions" opponents criticize will:

- Limit how much property taxes can be raised by a local school bond.

- Prohibit using funds for administration or bureaucracy.

- Require citizen watchdog committees.

- Prohibit special elections for enacting these bonds.

NONE OF THESE REFORMS WILL BECOME LAW UNLESS WE PASS PROPOSITION 39!

That's why the California Chamber of Commerce, California Organization of Police and Sheriffs, League of Women Voters of California, California Hispanic Chamber of Commerce, California Professional Firefighters, Consumer Federation of California and 200 other community organizations and leaders support 39.

OPPONENTS OF 39 WANT YOU TO BELIEVE ALL THESE RESPECTED GROUPS ARE LYING. BUT WHO'S REALLY LYING?

"Shame on the Jarvis political committee. They can't make their case with facts so they resort to scare tactics, fear-mongering and misleading statements."

AARP California State President Jacqueline N. Antee

"Contrary to the Jarvis group, passage of Proposition 39 *doesn't* raise property taxes, *doesn't* put a lien on your home and *doesn't* increase rents. Local voters have the final say in passing school bonds through a tough 55% super-majority vote."

California State PTA President Lavonne McBroom

By voting YES on 39, we can:

- Build new classrooms, repair older ones and reduce class size.

- Cut waste and abuses that have taken place in some districts.

- Assure that our children and grandchildren have safe schools in which to learn and prepare for the future.

YES on Proposition 39: fix the way schools spend money AND fix our schools.

ANDREW YSIANO, *Immediate Past President*

*California Hispanic Chamber of Commerce*

WILLIAM HAUCK, *Chairman*

*California Business for Education Excellence*

DAN TERRY, *President*

*California Professional Firefighters*

## AN OVERVIEW OF STATE BOND DEBT

This section of the ballot pamphlet provides an overview of the state's current bond debt. It also provides a discussion of the impact the bond measure on this ballot, if approved, would have on this debt level.

### BACKGROUND

**What Is Bond Financing?** Bond financing is a type of long-term borrowing that the state uses to raise money for specific purposes. The state gets money by selling bonds to investors. The state repays this money plus interest.

The money raised from bonds primarily pays for the purchase of property and construction of facilities—such as parks, prisons, schools, and colleges. The state uses bond financing mainly because these facilities are used for many years and their large dollar costs are difficult to pay for all at once.

**General Fund Bond Debt.** Most of the bonds the state sells are *general obligation* bonds. The state's debt payments on about three-fourths of these bonds are made from the state General Fund. The money in the General Fund comes primarily from state personal and corporate income taxes and sales taxes. The remaining general obligation bonds (such as housing bonds) are self-supporting and, therefore, do not require General Fund support. All general obligation bonds must be approved by a majority of voters and are placed on the ballot by legislative action or by initiative.

The state also issues bonds known as *lease-payment* bonds. These bonds do not require voter approval. The state pays a higher interest rate and selling costs on these bonds than it does on general obligation bonds. The state has used these bonds to build higher education facilities, prisons, veterans' homes, and state offices. The General Fund is also used to make debt payments on these bonds.

**What Are the Direct Costs of Bond Financing?** The state's cost for using bonds depends primarily on the interest rate that is paid on the bonds and the number of years payments are made. Most general obligation bonds are paid off over a period of 20 to 30 years. Assuming an interest rate of 5.5 percent (the current rate for this type of bond), the cost of paying off bonds over 25 years is about \$1.70 for each dollar borrowed—\$1 for the dollar borrowed and 70 cents for the interest. This cost, however, is spread over the entire period, so the cost after adjusting for inflation is less. Assuming a 3 percent future annual inflation rate, the cost of paying off the bonds in today's dollars would be about \$1.25 for each \$1 borrowed.

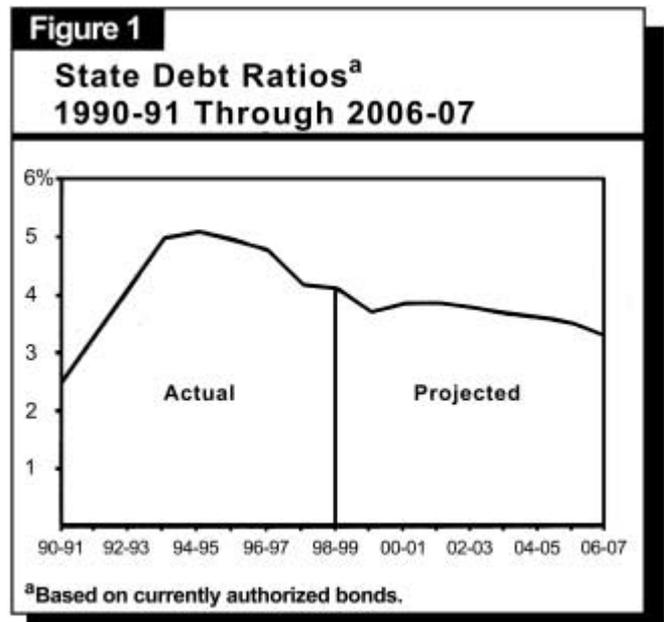
### The State's Current Debt Situation

**The Amount of State Debt.** As of April 2000, the state had about \$23 billion of General Fund bond

debt—\$17 billion of general obligation bonds and \$6 billion of lease-payment bonds. Also, the state has not yet sold about \$17 billion of authorized bonds because the projects to be funded by the bonds have not yet been undertaken.

**Debt Payments.** We estimate that payments on the state's General Fund bond debt will be around \$2.9 billion during the 2000–01 fiscal year. As currently authorized bonds are sold, bond debt payments will increase to \$3.4 billion in 2005–06 and decline thereafter.

The level of debt payments stated as a percentage of state General Fund revenues is referred to as the state's "debt-ratio." Figure 1 shows actual and projected debt ratios from 1990–91 through 2006–07. The figure shows that as currently authorized bonds are sold, the state's debt ratio will be 3.9 percent in 2001–02 and decline thereafter. The projected ratios will vary depending on when bonds are actually sold and on the state's actual General Fund revenues.



### Bond Proposition on This Ballot

Proposition 32—the Veterans' Bond Act of 2000—provides \$500 million in self-supporting general obligation bonds. This is the only general obligation bond proposition on this ballot. As noted above, self-supporting general obligation bonds do not require General Fund support. As a result, voter approval of these bonds will not affect the state's debt ratio.