CITY OF EMERYVILLE

MEMORANDUM

DATE: November 30, 2010

TO: Finance Committee

FROM: Karan Reid, Chief Financial Officer

SUBJECT: Local Impacts from Propositions 22 & 26

On November 2, 2010, the voters of California approved two propositions with local impacts. The first, Prop 22, protects local revenues from the State of California and the second, Prop 26, places additional limits on local revenues.

Proposition 22

The impact from the passage of Proposition 22 will protect future revenues of the City and Redevelopment Agency from State takeaways.

The passage of Proposition 22 eliminates or reduces the State's authority to:

- Use state fuel tax revenues to pay debt service on state transportation bonds
- Borrow or change distribution of state fuel tax revenues
- **Redirect redevelopment agency property taxes to any other local government**
- Temporarily shift property taxes from cities, counties and special district to schools
- Use vehicle license fee (VLF) revenues to reimburse local governments for state mandated costs

While Proposition 1A approved in 2004, provided some protection to local revenues, it did allow the State to borrow local funds. Included in the State's FY09/10 budget was a suspension of Proposition 1A and $1.9 billion "borrowing" of local property taxes. Under Prop 1A, these funds must be repaid within three years and no additional borrowing may occur until the original amount is fully repaid. Emeryville's share of the Prop 1A borrowing was $285,155.

However, no protection was afforded for redevelopment revenues under Prop 1A and the State redirected $2.05 billion revenues from redevelopment agencies over the FY09/10 and FY10/11 fiscal years. Emeryville's share was $11.3 million in FY09/10 and $2.3 million in FY10/11. This was a permanent shift; no repayment is provided.

Proposition 22 prevents the State from repeating either of the scenarios above. The time period covered by this proposition does not alter Emeryville's obligation for FY 10/11; however, no future shifts may occur.

A copy of the Legislative Analyst's Office summary of Proposition 22 is attached.

Proposition 26

Proposition 26 appears to have little impact to Emeryville. Based on an initial review, Emeryville's fees are exempt from Proposition 26.

Under Proposition 26, many regulatory fees that benefit the public broadly rather than providing a direct and distinct benefit to the fee payor are recategorized as taxes and subject to two-thirds voter (or two-thirds legislative) approval. The effective date is November 3, 2010.

Proposition 26 amended the State Constitution defining a "tax" as any levy, charge or exaction of any kind imposed by a local government, except the following:

1) Charge for a specific benefit and is not provided to those not charged, such as parking permits and franchise fees
2) Charge imposed for specific government service (user fees). Examples are sewer user fees, recreation classes and DUI fees
3) Charge imposed for reasonable regulatory costs such as permits for regulated commercial activities (massage parlor, card room, taxicabs, etc.)
4) Charge imposed for entrance or use of local government property including facility rentals, on and off-street parking, and franchise fees.
5) Fine or penalty as a result of a violation of law including parking and moving violations.
6) Charge imposed as a condition of development such as construction permits, planning fees, development impact fees and traffic impact fees.
7) Assessments and property related fees

Examples of fees that are now characterized as taxes under Proposition 26 include:

- State's fee on lead-containing products
- Alcohol impact fees some local jurisdictions have imposed to address nuisance behaviors near alcohol vendors
- Fees on sweetened beverages to fund anti-obesity and other public health programs

While Emeryville's fees appear to be exempt from Proposition 26, caution should be used in implementing any new fees. Law in this area will develop over time and could impact our local fees.

A copy of Michael Coleman's paper on Proposition 26 is attached.

Proposition 22

Prohibits the State from Taking Funds Used for Transportation or Local Government Projects and Services. Initiative Constitutional Amendment.

BACKGROUND

Under the State Constitution, state and local government funding and responsibilities are interrelated. Both levels of government share revenues raised by some taxes—such as sales taxes and fuel taxes. Both levels also share the costs for some programs—such as many health and social services programs. While the state does not receive any property tax revenues, it has authority over the distribution of these revenues among local agencies and schools.

Over the years, the state has made decisions that have affected local government revenues and costs in various ways. Some of these decisions have benefited the state fiscally, and others have benefited local governments. For example, in the early 1990s, the state permanently shifted a share of city, county, and special district property tax revenues to schools. These shifts had the effect of reducing local agency resources and reducing state costs for education. Conversely, in the late 1990s, the state changed laws regarding trial court program funding. This change had the effect of shifting local agency costs to the state.

In recent years, the state's voters have amended the Constitution to limit the state's authority over local finances. Under Proposition 1A of 2004, the state no longer has the authority to permanently shift city, county, and special district property tax revenues to

schools, or take certain other actions that affect local governments. In addition, Proposition 1A of 2006 restricts the state's ability to borrow state gasoline sales tax revenues. These provisions in the Constitution, however, do not eliminate state authority to temporarily borrow or redirect some city, county, and special district funds. In addition, these propositions do not eliminate the state's authority to redirect local redevelopment agency revenues. (Redevelopment agencies work on projects to improve blighted urban areas.)

PROPOSAL

As Figure 1 summarizes, this measure reduces or eliminates the state's authority to:

- Use state fuel tax revenues to pay debt service on state transportation bonds.
- Borrow or change the distribution of state fuel tax revenues.
- Redirect redevelopment agency property taxes to any other local government.
- Temporarily shift property taxes from cities, counties, and special districts to schools.
- Use vehicle license fee (VLF) revenues to reimburse local governments for state mandated costs.

As a result, this measure affects resources in the state's General Fund and transportation funds. The General Fund is the state's main funding source for schools, universities, prisons, health, and social services programs. Transportation funds are placed in separate accounts and used to pay for state and local transportation programs.

Figure 1
Major Provisions of Proposition 22

✓ **Restrictions Regarding State Fuel Taxes**
- Reduces state's authority to use funds to pay debt service on transportation bonds.
- Prohibits borrowing of funds by the state.
- Limits state authority to change distribution of funds.

✓ **Other Restrictions on the State**
- Prohibits redirection of redevelopment property tax revenues.
- Eliminates state authority to temporarily shift property tax revenues from cities, counties, and special districts.
- Prohibits state from using vehicle license fee revenues to pay for state-imposed mandates.

✓ **Enforcement**
- Repeals state laws enacted after October 20, 2009 if they conflict with the measure.
- Provides reimbursement if the state violates any term of the measure.

Use of Funds to Pay for Transportation Bonds

State Fuel Taxes. As Figure 2 shows, the state annually collects about $5.9 billion in fuel tax revenues for transportation purposes—with most of this amount coming from a 35.3 cents per gallon excise tax on gasoline. The amounts shown in Figure 2 reflect changes adopted in early 2010. Prior to these changes, the state charged two taxes on gasoline: an 18 cents per gallon excise tax and a sales tax based on the cost of the purchase. Under the changes, the state collects the same amount of total revenues but does not charge a state sales tax on gasoline. (These state fuel tax changes did not affect the local sales tax on gasoline.) Part of the reason the state made these changes is because revenues from the gasoline excise tax can be used more flexibly than sales tax revenues to pay debt service on transportation bonds.

Figure 2

Current State Fuel Tax Revenues for Transportation Purposes[a]

2010-11
(In Millions)

Fuel	Excise Tax	Sales Tax
Gasoline	$5,100	—
Diesel	470	$300
Totals	**$5,570**	**$300**

[a] Local governments also charge taxes on fuels. The figure does not show these local revenues.

Current Use of Fuel Tax Revenues. The main uses of state fuel tax revenues are (1) constructing and maintaining highways, streets, and roads and (2) funding transit and intercity rail services. In addition, the state uses some of its fuel tax revenues to pay debt-service costs on voter-approved transportation bonds. In the current year, for example, the state will use about $850 million of fuel tax revenues to pay debt-service costs on bonds issued to fund highway, road, and transit projects. In future years, this amount is expected to increase to about $1 billion annually.

Reduces State Authority. The measure reduces state authority to use fuel tax revenues to pay for bonds. Under the measure, the state could not use fuel tax revenues to pay for any bonds that have already been issued. In addition, the state's authority to use fuel tax revenues to pay for bonds that have not yet been issued would be significantly restricted.

Because of these restrictions, the state would need to pay about $1 billion of annual bond costs from its General Fund rather than from transportation accounts. (In the current year, the amount would be somewhat less because the state would have paid

some of its bond costs using fuel tax revenues by the time of the election.) This, in turn, would (1) increase the amount of funds the state would have available to spend for transportation programs and (2) reduce the amount of General Fund resources the state would have available to spend on non-transportation programs.

Borrowing of Fuel Tax Revenues

Current Authority to Borrow. While state fuel tax revenues generally must be used for transportation purposes, the state may use these funds for other purposes under certain circumstances. Specifically:

- ***Borrowing for Cash Flow Purposes.*** The state historically has paid out most of its General Fund expenses between July and December of each year, but received most of its revenues between January and June. To help manage this uneven cash flow, the state often borrows funds from various state accounts, including fuel tax funds, on a temporary basis. The cash flow loans of fuel tax funds often total $1 billion or more.
- ***Borrowing for Budget-Balancing Purposes.*** In cases of severe state fiscal hardship, the state may use fuel tax revenues to help address a budgetary problem. The state must pay these funds back within three years. For example, at the time this analysis was prepared, the proposed 2010-11 state budget included a $650 million loan of state fuel tax revenues to the state General Fund.

Prohibits Borrowing. This measure generally prohibits fuel tax revenues from being loaned—either for cash flow or budget-balancing purposes—to the General Fund or to any other state fund. The state, therefore, would have to take alternative actions to address its short-term borrowing needs. These actions could include borrowing more from private markets, slowing state expenditures to accumulate larger reserves in its accounts, or speeding up the collection of tax revenues. In place of budgetary borrowing, the state would have to take alternative actions to balance future General Fund budgets—such as reducing state spending or increasing state taxes.

Distribution of Fuel Tax Revenues

Current Distribution. Roughly two-thirds of the state's fuel tax revenues are spent by the state, and the rest is given to cities, counties, and transit districts. Although state law specifies how much money local agencies shall receive, the Legislature may pass a law with a majority vote of each house to change these funding distributions. For example, the state has made various changes to the allocation of transit funding over recent years.

Limits Changes to Distribution. This measure constrains the state's authority to change the distribution of state fuel tax revenues to local agencies. In the case of fuel excise taxes, the measure requires that the formula to distribute these tax revenues to local governments for the construction or maintenance of local streets and roads be the one that was in effect on June 30, 2009. (At that time, local governments received the revenues generated from 6 cents of the 18 cents being collected from the fuel excise tax.)

Under this measure, the state could enact a law to change this allocation, but only by a two-thirds vote of each house of the Legislature and after the California Transportation Commission conducted a series of public hearings.

In the case of diesel sales tax revenues (used primarily for transit and transportation planning), current law requires that the funds be distributed 25 percent to the state and 75 percent to local governments, beginning in 2011-12. The measure specifies that the funds instead be split equally between local and state programs. This change in diesel sales tax revenue distribution, therefore, would provide somewhat lower ongoing funding for local transit purposes and more funding for state transit purposes than otherwise would be the case. Under the measure, the state could not change this distribution of funds.

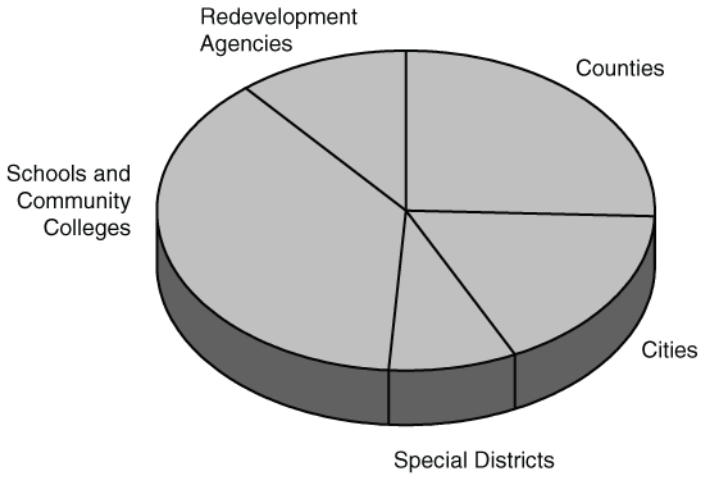
Allocation of Property Tax Revenues

Current Property Tax Distribution. California property owners pay a 1 percent tax on the value of their homes and other properties, plus any additional property tax rates for voter-approved debt. State law specifies how county auditors are to distribute these revenues among local governments. Figure 3 shows the average share of property tax revenues local governments receive.

Figure 3

Estimated Local Government Shares of the 1 Percent Property Tax

Statewide Average



Excludes effect of any temporary property tax shifts.

State law allows the state to make some changes to the distribution of property tax revenues. For example, the state may require redevelopment agencies to shift revenues to nearby schools. Recently, the state required redevelopment agencies to shift $2 billion of revenues to schools over two years. (This amount is roughly 15 percent of total redevelopment revenues.) In addition, during times of severe state fiscal hardship, the state may require that a portion of property tax revenues be temporarily shifted away from cities, counties, and special districts. In this case, however, the state must repay the local agencies for their losses within three years, including interest. Recently, the state required these agencies to shift $1.9 billion of funds to schools. The major reason the

state made these revenue shifts was to reduce state General Fund costs for education and other programs.

Reduces State Authority. This measure prohibits the state from enacting new laws that require redevelopment agencies to shift funds to schools or other agencies. The measure also eliminates the state's authority to shift property taxes temporarily during a severe state fiscal hardship. Under the measure, therefore, the state would have to take other actions to balance its budget in some years—such as reducing state spending or increasing state taxes.

Use of VLF Revenues

Current VLF. California vehicle owners pay a VLF based on their vehicle's value at a rate of 1.15 percent, including a 0.65 percent ongoing rate and a 0.50 percent temporary rate. Most VLF revenues are distributed to local governments.

Current Mandate Payments. The state generally must reimburse local governments when it "mandates" that they provide a new program or higher level of service. The state usually provides reimbursements through appropriations in the annual budget act or by providing other offsetting funds.

Restricts Use of VLF Funds. This measure specifies that the state may not reimburse local governments for a mandate by giving them an increased share of VLF revenues collected under the ongoing rate. Under the measure, therefore, the state would have to reimburse local governments using other resources.

State Laws That Are in Conflict With This Proposition

Voids Recent Laws. Any law enacted between October 20, 2009 and November 2, 2010 that is in conflict with this proposition would be repealed. Several factors make it difficult to determine the practical effect of this provision. First, parts of this measure would be subject to future interpretation by the courts. Second, in the spring of 2010, the state made significant changes to its fuel tax laws, and the full effect of this measure on these changes is not certain. Finally, at the time this analysis was prepared (early in the summer of 2010), the state was considering many new laws and funding changes to address its major budget difficulties. As a result, it is not possible to determine the full range of state laws that could be affected or repealed by this measure.

Requires Reimbursement for Future Laws. Under this measure, if a court ruled that the state violated a provision of Proposition 22, the State Controller would reimburse the affected local governments or accounts within 30 days. Funds for these reimbursements, including interest, would be taken from the state General Fund and would not require legislative approval.

FISCAL EFFECTS

State General Fund

Effect in 2010-11. This measure would (1) shift some debt-service costs to the state General Fund and (2) prohibit the General Fund from borrowing fuel tax revenues. As a result, the measure would reduce resources available for the state to spend on other programs, probably by about $1 billion in 2010-11. To balance the budget, the state would have to take other actions to raise revenues and/or decrease spending. Overall,

the measure's immediate fiscal effect would equal about 1 percent of total General Fund spending. As noted above, the measure also would repeal laws passed after this analysis was prepared that conflicted with its provisions.

Longer-Term Effect. Limiting the state's authority to use fuel tax revenues to pay transportation bond costs would increase General Fund costs by about $1 billion annually for the next couple of decades. In addition, the measure's constraints on state authority to borrow or redirect property tax and redevelopment revenues could result in increased costs or decreased resources available to the General Fund in some years. The total annual fiscal effect from these changes is not possible to determine, but could range from about $1 billion (in most years) to several billion dollars (in some years).

State and Local Transportation Programs and Local Government

The fiscal effect of the measure on transportation programs and local governments largely would be the *opposite* of its effect on the state's General Fund. Under the measure, the state would use General Fund revenues—instead of fuel tax revenues—to pay for transportation bonds. This would leave more fuel tax revenues available for state and local transportation programs.

In addition, limiting the state's authority to redirect revenues likely would result in increased resources being available for redevelopment and state and local transportation programs. Limiting the state's authority to borrow these revenues likely would also result in more stable revenues being available for local governments and transportation. The magnitude of this fiscal effect is not possible to determine, but could

be in the range from about $1 billion (in most years) to several billions of dollars (in some years).

Proposition 22

Prohibits the State from Taking Funds Used for Transportation or Local Government Projects and Services. Initiative Constitutional Amendment.

Yes/No Statement

A **YES** vote on this measure means: The state's authority to use or redirect state fuel tax and local property tax revenues would be significantly restricted.

A **NO** vote on this measure means: The state's current authority over state fuel tax and local property tax revenues would not be affected.

Living With Proposition 26 of 2010

By Michael Coleman

On November 2, 2010, the voters of California approved Proposition 26, the "Stop Hidden Taxes Initiative," with a 53% yes vote. Proposition 26 recategorizes many state and local fees as taxes, which require two-thirds voter approval for local governments and two-thirds legislative approval for those imposed by the state. Generally, those revenue measures which continue to be properly classified as fees may be adopted by simple majorities of the State Legislature, city councils, and boards of supervisors and voter approval is not required.

The findings and declaration of purpose section of Proposition 26 briefly describe the voter approval requirements for taxes contained in Proposition 13 and Proposition 218 and state that the latest measure is aimed at *"the recent phenomenon whereby the Legislature and local governments have disguised new taxes as 'fees' in order to extract even more revenue from California taxpayers without having to abide by these constitutional voting requirements. Fees couched as 'regulatory' but which exceed the reasonable costs of actual regulation or are simply imposed to raise revenue for a new program and are not part of any licensing or permitting program are actually taxes and should be subject to the limitations applicable to the imposition of taxes."*

Background

Regulatory fees have been imposed by the state and local governments on businesses and individuals to pay for the cost of public programs or projects necessary to regulate activity of the business or person and to mitigate the impacts of the regulated activity on the community. In 1997 the California Supreme Court decided *Sinclair Paint Co. v State Board of Equalization* concerning a fee on businesses that made products containing lead. The proceeds of the fee were used for programs to screen and treat children for lead poisoning and to otherwise mitigate the social and environmental consequences of lead contamination. The paint company argued that the charge was in fact a tax and as such required two-thirds approval of each chamber of the Legislature under Proposition 13. The Court disagreed, ruling that the proceeds of a fee need not benefit those charged as long as the fee bears a reasonable relationship to the burden imposed on society by those charged.

The most well known regulatory fees in local government are those for the issuance of a license or permit, the conduct of an investigation or inspection, and the administration and maintenance of a system of supervision and enforcement of regulated activity to protect the public health and safety. These include fees on new construction and development, parking permits, alarm permits, pet licenses, concealed weapons permits; bicycle licenses; alcohol/drug-related emergency response; permits for regulated commercial activities (e.g., dance hall, bingo, card room, check cashing, taxicab, peddlers, catering trucks, massage parlor, firearm dealers, etc.). However, regulatory fees have been imposed to mitigate the past, present and future adverse impacts of the operations of a particular business or

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personal enterprise the fee payers' operations. Prior to November 3, 2010 such a fee could be imposed regardless of whether the revenues from the fee were used to benefit those charged as long as the fee was commensurate with the burden imposed on society by the activity of those charged. For example, a few cities have imposed fees on owners of establishments that sell alcoholic beverages to mitigate the documented consequences and effects of those businesses, beyond just supplemental law enforcement at those businesses. Some local governments and the state have considered fees on sweetened beverages to fund anti-obesity and other public health programs. Courts have upheld air pollution district fees based on the volume of a permittee's emissions or the vehicle trips arising from new construction.

Under the law, that existing prior to the adoption of Proposition 26, most fees may not exceed the estimated reasonable cost of providing the service or project for which the fee is charged. Fees must be reasonable, fair and equitable and proportionately representative of the costs incurred by the public agency.

California law distinguishes taxes, fees, assessments, and other government charges. The law provides different approval requirements depending on the nature of the charge.

Approval Requirements: State and Local Fees and Taxes ***Proposition 26 recategorizes as taxes certain charges previously considered fees***		
	Fee	Tax
State	Majority of each house of the Legislature and Governor's approval.	*For any law that will increase the taxes of any taxpayer, regardless of the overall effect of the law on state revenues** two-thirds of each house of the Legislature and Governor's approval or initiative constitutional amendment approved by simple majority of voters.
City or County	Majority of the city council or board of supervisors.	Two-thirds voter approval for a special tax (earmarked), majority voter approval for a general tax.
*Proposition 26 changed this standard from ***any law increasing state revenues***, to ***any law that will increase the taxes of any taxpayer***.		

Taxes and Regulatory Fees Under Proposition 26

Proposition 26 recategorizes as taxes many regulatory fees that benefit the public broadly rather than providing a direct and distinct benefit to the business owner or other fee payor. Among these are regulatory fees and assessments to address the health, environmental and other social effects of certain activities of individuals and businesses. The approval threshold for taxes is substantially higher.

Proposition 26 provides a new definition of "tax," specifying that any government imposed charge of any kind is a tax unless it falls into one of a few express exceptions. Proposition 26 contains separate but very similar provisions for state and local government.

Local Government Taxes under Proposition 26. With regard to local government, the measure adds the following language to Section 1 of Article XIIIA of the California State Constitution:

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SECTION 1 (e) As used in this article, "tax" means any levy, charge or exaction of any kind imposed by a local government, except the following:

(1) A charge imposed for a specific benefit conferred or privilege granted directly to the payor that is not provided to those not charged, and which does not exceed the reasonable costs to the local government of conferring the benefit or granting the privilege.

Examples: Street trench cut permits, street closure permits, parking permits in restricted zones, franchises (to the extent that the privilege is not provided to those not charged, and the fee does not exceed the reasonable costs of service to the local government).

(2) A charge imposed for a specific government service or product provided directly to the payor that is not provided to those not charged, and which does not exceed the reasonable costs to the local government of providing the service or product.

Examples: user fees including for water, sewer, gas, electric, recycling, refuse, documents, DUI fees, advance life support transport, recreation classes, street/sidewalk/curb repairs, weed abatement (to the extent that the service or product privilege is not provided to those not charged, and the fee does not exceed the reasonable costs of service to the local government).

(3) A charge imposed for the reasonable regulatory costs to a local government for issuing licenses and permits, performing investigations, inspections and audits, enforcing agricultural marketing orders, and the administrative enforcement and adjudication thereof.

Examples: permits for regulated commercial activities (e.g., dance hall, bingo, card room, check cashing, taxicab, peddlers, catering trucks, massage parlor, firearm dealers, etc.); CEQA/EIS, plan check, fire, building, health, environmental, safety permits; police background checks; pet licenses; bicycle licenses; (where the costs do not exceed the reasonable regulatory costs to the local government for issuing the license or permit.)

(4) A charge imposed for entrance to or use of local government property or the purchase rental or lease of local government property.

Examples: facility rental, on and off-street parking, tolls, franchise, park entrance, museum admission, zoo admission, tipping fees, golf green fees, etc.

(5) A fine, penalty, or other monetary charge imposed by the judicial branch of government or a local government as a result of a violation of law, including late payment fees, fees imposed under administrative citation ordinances, parking violations, etc.

Examples: fines, penalties, for violation of the law.

(6) A charge imposed as a condition of property development.

Examples: construction permits, development impact fees, fees imposed to remedy the effects of the fee payor's operation that are imposed as a condition of property development.

(7) Assessments and property related fees imposed in accordance with the provisions of Article XIII D. (Proposition 218)

Examples: assessments on real property for special benefit conferred, fees imposed upon a parcel or a person as an incident of property ownership.

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A fee or charge that is not "imposed by a local government" is not covered by Proposition 26. Consequently payments that are made as a condition of a contract or agreement, and that are not otherwise imposed, are not taxes. These include payments to a local government or to a franchised service provider under a franchise agreement or fees paid to a local government under a development agreement.

State Government Taxes under Proposition 26. In addition to a similar (but not identical) definition of "tax," the state government focused provisions of Proposition 26 broaden Proposition 13's requirement that laws enacted "for the purpose of increasing revenues" be approved by two-thirds of each chamber of the Legislature. Proposition 26 substantially expands this supermajority vote requirement to any law that will increase the taxes of any taxpayer. Some have suggested that this rule might expand the legislative supermajority rule to include such things as state conformity with federal tax structures, revisions to tax depreciation schedules, changes in building codes or other laws that require the purchase of goods subject to the sales tax, and increases in the minimum wage which increase an individual's wages and thus the payroll taxes they owe. Some, including the Legislative Analyst's Office, have suggested that Proposition 26 may also conflict with the gas tax swap of 2009 which reduced the sales tax on gasoline and increase the fuel excise tax on gasoline in order to provide the state with more flexibility in the use of those tax revenues. However, these effects are unclear.

Effective Dates

The provisions of Proposition 26 are slightly different for state government than for local government, including the effective dates. For the state, the measure is effective on November 3, 2010. Moreover, any state revenue measure not in compliance with Proposition 26 and adopted after January 1, 2010 will be void November 3, 2011 (i.e. a year after) unless reenacted by the Legislature with a two-thirds vote of each house and signed by the Governor. The measure's provisions do not apply to state actions taken before January 1, 2010.

With regard to local governments, the measure is applies to any levy, charge or exaction imposed by local government on or after, but not before, November 3, 2010. Thus, fees adopted prior to that time are not subject to the measure.

Conclusion

There are many uncertainties about Propositions 26. The debate has now begun as to its meaning and implications. State legislation and litigation will clarify some provisions. Local agency officials should:

- Familiarize yourself with the text of the measure.
- Identify existing fees that are exempt (i.e. not taxes) under Proposition 26.
- In consultation with your legal counsel, identify any regulatory fees or charges which might, if increased or extended after November 2, 2010, be considered taxes under Proposition 26.
- Adopt no new or increased fees (including adjustments to existing fees), without consulting your legal counsel as to whether that increase is subject to Propositions 218 or 26.

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