

VENTURA COUNTY CITIES' RESPONSE TO PROPOSITION 218

INTRODUCTION

The Grand Jury started its term with an interest in tax revenues for the ten cities in Ventura County. In November 1996, the electorate passed Proposition 218, the "Right to Vote on Taxes Act" (The Act). The Act is a constitutional amendment which restricts local officials' ability to impose taxes, and imposes various voter approval requirements on those levies. Before its passage, local officials and public finance experts argued that the Act was unclear with respect to the revenues affected, the procedures to obtain voter approval, and the exemptions to its provisions. We were interested in assessing how the cities within Ventura County were dealing with this new problem for local government.

We reviewed the text of Proposition 218, read the analysis of the Legislative Analyst, reviewed pending legislation, addressed inquiries to local government officials and interviewed city and county officials.

FINDINGS

The Act requires a majority of voters to approve increases in general taxes (imposed for general government purposes) and reiterates that a two-thirds majority is required to approve special taxes (imposed for a specific purpose). Assessments, fees and charges must be submitted to affected property owners for approval or rejection after notice and public hearings. Further, assessments are limited to the special benefits conferred, and the votes are to be weighted in accordance with the benefit derived.

The Act imposes extensive requirements on local governments to initiate or change assessments:

- Local governments must estimate the amount of "special benefit" received by each property owner.
- Property owners' assessments cannot be greater than the cost to provide the improvement or service.
- Local governments must charge schools and other public agencies their share of the assessment.
- Local governments must accept protest petitions or conduct mail-in elections for each assessment.
- The burden of proof to show that an assessment is legal is shifted from the tax payer to local government.

After July 1, 1997, all existing, new, or increased assessments must comply with the Act.

The Act exempts some assessments from its provisions:

- Assessments imposed exclusively to finance capital and maintenance costs for sidewalks, streets, sewers, water, and flood, drainage, and vector control.

- Assessments imposed in accordance with a petition signed by the persons owning all of the parcels subject to the assessment.
- Assessments used exclusively to repay bonded indebtedness.

The Act is inconsistent with numerous pre-existing statutes affecting local government finances. For example, existing laws have over 30 different provisions specifying the procedures for imposing new or increased benefit assessments. All will have to be changed or repealed.

Senate Bill 919 and Assembly Bill 1506 have been introduced to clarify the requirements of the Act. Senate Bill 919 has passed the Senate (26 to 0) and is before the Assembly for consideration.

SB 919 addresses only the most urgent requirements for changes in the Elections Code, the Government Code, the Health and Safety Code, and the Streets and Highways Code. As an example, the Elections Code needs to permit consideration of protest petitions and balloting by mail.

The cities in Ventura County have taken a "wait and see" position because of the urgent need for clarifying legislation.

The cities in Ventura County have analyzed, to varying degrees, the immediate impact of the Act. Generally, as long as assessments are in place by July 1, 1997, most anticipate no problems. Revenues for fiscal year 1997/98 should not be affected, except for some minor and isolated situations.

The sponsors of Proposition 218 have published a memorandum on their legislative intent. There is no legal precedent for considering such a statement, but it has been looked upon as a signal that a liberal interpretation may be permitted without legal challenge.

Legislation currently being considered (SB 919) is just the beginning of the required statutory adjustments, some of which are intended to make implementation easier and soften some of the apparent harshness of the Act.

CONCLUSIONS

1. Ventura County cities have taken a prudent course by waiting for legislative clarification before attempting to implement the Act.
2. Implementing the Act effectively will take planning and resources. In light of revenue limitations, Ventura County Cities would do well to plan thoroughly and take early steps to implement the Act.
3. City officials will have to be more active in reaching out to citizens to build consensus for urban planning and policies which each city considers a reflection of its living style.

RECOMMENDATIONS

1. Each city should set assessments that need attention prior to July 1, 1997.
2. As soon as clarifying legislation is passed, each city should aggressively plan for implementation of the requirements of the Act.
3. Each city should make full use of opportunities to lessen the impact of the Act on city administration and costs. For example, clarifying legislation may include

RESPONSE REQUIRED

provisions for establishing an assessment range to be imposed over a period of time, including inflationary adjustments.

- Camarillo
- Fillmore
- Moorpark
- Ojai
- Oxnard
- Port Hueneme
- San Buenaventura
- Santa Paula
- Simi Valley
- Thousand Oaks