



Fundamentals of Fees, Assessments, and Parcel Taxes

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Cities Vary, Counties Vary, Special Districts Vary *... and so do their finances*

- ✓ Geography: proximity, climate, terrain, access
- ✓ Community Character / Vision: Land use
Bedroom? Industrial? Tourist? Rural? etc.
- ✓ Size – urban / rural
- ✓ Governance / service responsibilities
full service city - vs.- not full service
- ✓ Counties – amount of urban development in unincorporated areas

❖ *Statewide generalizations often mask trends among sub-groups*



The Mechanics of Government Revenue

Who pays?

*visitors, residents,
businesses, etc.*

What rate /
base?

*\$per gallon, % per price,
depreciated value, etc.*

Who
collects? &
enforces
payment?

How's it
allocated?

*situs; pooled /
population, etc.*

What is the
\$ used for?

*general, water,
roads, parks etc.*

Who decides?

- o *Statewide voters /
Constitution*
- o *State law / Legislature*
- o *Local voters*
- o *Local law / City Council*

Taxes

- ✓ Charges which pay for public services and facilities that provide general benefits. No need for a direct relationship between a taxpayer's benefit and the tax paid.
- ✓ Cities may impose any tax not otherwise prohibited by state law.
(Gov Code § 37100.5)
- ✓ The state has reserved a number of taxes for its own purposes including:
cigarette taxes, alcohol taxes, personal income taxes.
- ✓ General & Special
 - General Tax - revenues may be used for any purpose.
 - Majority voter approval required for new or increased local tax
 - Special Taxes - revenues must be used for a specific purpose.
 - 2/3 voter approval required for new or increased local tax
 - Parcel tax - requires 2/3 vote

Parcel Taxes

- ✓ California Constitution: only two types of taxes may be imposed upon a parcel of property:

1. an ad valorem property tax

2. a special tax receiving two-thirds voter approval

So a parcel tax requires two-thirds voter approval regardless of how (or if) the proceeds are restricted

- ✓ Flat per-parcel rate or per use, size, number of units
- ✓ To distinguish from property tax, ordinance should say
 - excise tax for revenue raising purposes
 - on the use of municipal services (rather than property ownership)
- ✓ Rates should show rough proportionality to use of services



Fees and the Rest

California Constitution per Prop218(1996, Prop26(2010), etc.

Any levy, charge or exaction of any kind imposed by a California government, is a **tax** except:

- **User Fees and Assessments***: for a privilege/benefit, service/product

Planning permits, development fees, parking permits, user fees, copying fees, recreation classes, gas / electric utility services, security services, wholesale water services, transit services, etc.

- **Regulatory Fees***: regulation, permits, inspections

Permits for regulated commercial activities (e.g., dance hall, bingo, card room, check cashing, taxicab, peddlers, catering trucks, massage parlor, firearm dealers, etc.); fire, health, environmental, safety permits; police background checks; pets; bicycle licenses.

- **Rents**: charge for entrance, use or rental of government property

Facility/room rental fees, room rental fees, equipment rental fees, on and off-street parking, tolls, franchise, park entrance, museum admission, zoo admission, tipping fees, golf green fees, etc

- **Penalties** for illegal activity, fines and forfeitures, etc.

Parking fines, late payment fees, interest charges and other charges for violation of the law.

- **A payment that is not imposed** by government

Includes payments made pursuant to a voluntary contract or other agreement that are not otherwise "imposed" by a government's power to coerce.

* Privilege/benefit or service/ product "may not be provided to those not charged"
Fee may not exceed reasonable costs.



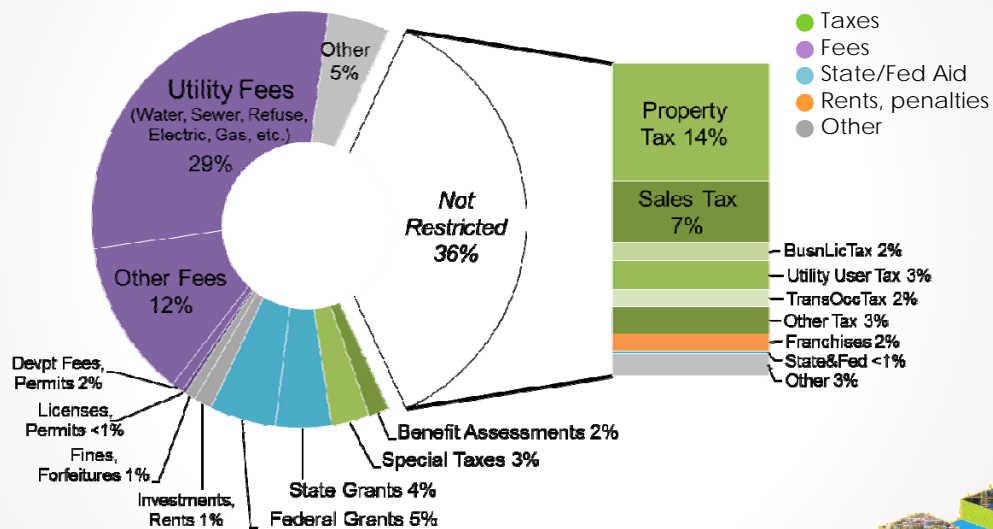
Taxes and Fees/etc. Approval Requirements (California Constitution)



	TAX- General	TAX- Parcel or Special (earmarked)	G.O.BOND (w/tax)	Fee / fine / rent
City / County	Majority voter approval	Two-thirds voter approval	Two-thirds voter approval	Majority of the governing board.*
Special District	n/a	Two-thirds voter approval	Two-thirds voter approval	Majority of the governing board.*
K-14 School	n/a	Two-thirds voter approval (parcel tax)	55% voter approval*	Majority of the governing board.*
State	For any law that will increase the taxes of any taxpayer, two-thirds of each house of the Legislature ...or approval of majority of statewide voters.		Statewide majority voter approval	Majority of each house.



California City Revenues

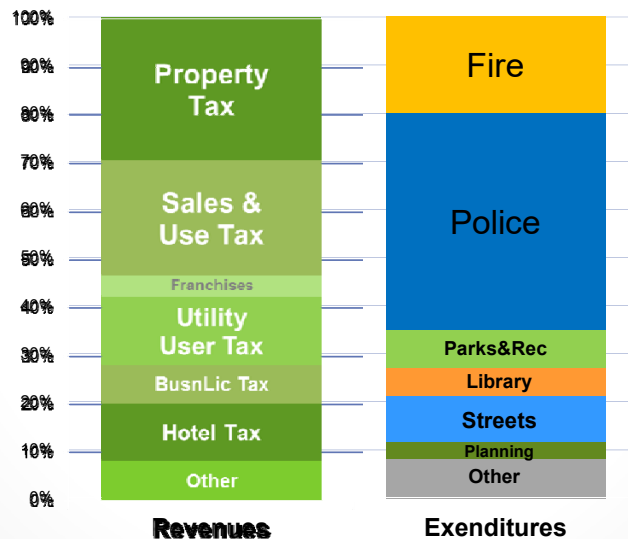


Source: CaliforniaCityFinance.com computations from data from California State Controller (revenues). Does not include data from the following cities that failed to report: Beaumont, Hawthorne, Imperial, La Habra, Lindsay, Placerville, Stockton, Taft, and Westmorland.



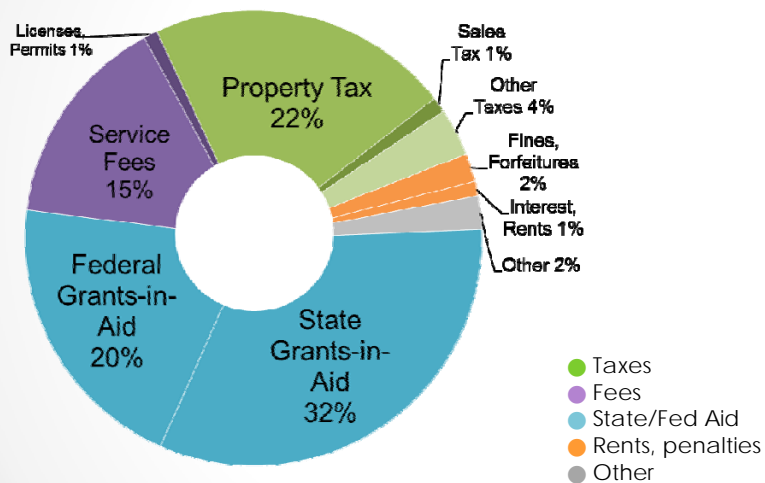
Discretionary Revenues and Spending

Typical Full Service City



Source: Author's computations from State Controller reports

California County Revenues



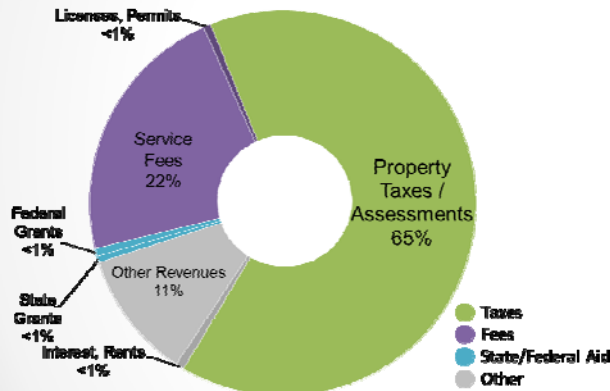
Counties are hybrid local/state

- state/federal programs: Aid to families (CalWORKS), food stamps, foster care, In-Home Support Services (IHSS), alcohol & drug treatment.
- countywide services: jails, courts, elections, property tax collection & allocation.
- "city" services to unincorporated areas

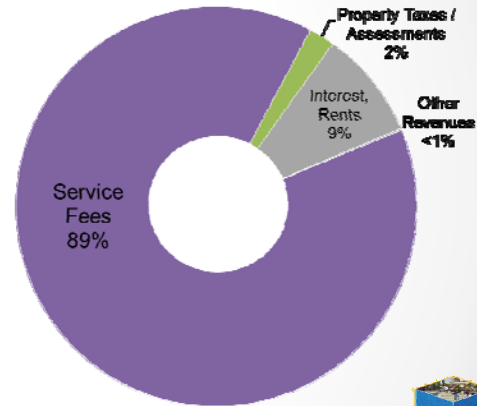
Source: CaliforniaCityFinance.com computations from data from California State Controller.

California Special District Revenues

Typical Non-Enterprise (e.g., Fire, Parks)



Typical Enterprise (e.g., Water, Sanitation)



Source: CaliforniaCityFinance.com computations from data from California State Controller.



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Sinclair Paint Co. v State Board. of Eq. (1997)

Regulatory fee revenue may be used to **mitigate the past, present, or future adverse impact of the fee payer's operations**, as long as the fee bears a **reasonable relationship to the burden caused by those charged**. The use of proceeds from regulatory fees does not have to confer benefits or privileges on the fee payer.

Regulatory Fees - examples

Waste hauler surcharge
used to fund a no-cost program to dispose of household toxic materials (e.g., paint, solvents) and appliances.

Fee for fire prevention
brush management near canyons, hillsides, etc. Some revenues fund emergency preparedness education program.

Water conservation inspection fee, a portion used to fund a rebate program for the installation of low volume water fixtures.



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Proposition 26 Aimed at Sinclair

A charge imposed to recover the reasonable costs to a local government for issuing licenses and permits, performing investigations, inspections, audits, enforcing agricultural marketing orders, administration and enforcement of the regulations. -**Regulatory Fee** under Proposition 26

Does NOT include: fees/charges to mitigate the past, present, or future adverse impact of the fee payer's operations.

Waste hauler surcharge
used to fund a no-cost program to dispose of household toxic materials (e.g., paint, solvents) and appliances.

Fee for fire prevention
brush management near canyons, hillsides, etc. Some revenues fund emergency preparedness education program.

Water conservation inspection fee, a portion used to fund a rebate program for the installation of low volume water fixtures.

👉 OK if adopted prior to Nov 2, 2010



Regulatory Fee

A charge imposed to recover the reasonable costs to a local government for issuing licenses and permits, performing investigations, inspections, audits, enforcing agricultural marketing orders, administration and enforcement of the regulations.

User Fee

A charge for specific benefit or privilege, service or product granted directly to the payor

- *not provided to those not charged*
- *does not exceed the reasonable costs to the local government of the benefit, privilege, service or product.*



Fees: Calibrated to Precise Benefit?

"The question of proportionality is not measured on an individual basis. Rather it is measured collectively, considering all rate payors. Thus, permissible fees must be related to the overall cost of the governmental regulation. They need not be finely calibrated to the precise benefit each individual fee payor might derive. What a fee cannot do is exceed the reasonable cost of regulation with the generated surplus used for general revenue collection. An excessive fee that is used to generate revenue becomes a tax."

Calif. Farm Bureau Fed'n v. StateWaterRes.Control Bd., 51Cal.4th 2012



User Fees: Differential Rates, Discounts, Waivers

Permit fee for fishing in a public reservoir
(i.e., for a privilege or benefit)
♦ waived for local residents

Ceramics class fee
(i.e., for a service or product)
♦ discounted for seniors / students

Gas service charge
(i.e., for a service or product)
♦ discounts to low income customers

Smells like a **tax** if ...

- the cost of providing the discount, fee waiver, or differential rate is diverted to other fee payers who must pay for the same benefit, privilege, service or product, **or**
- the fee or charge paid by the other fee payers exceeds the cost of providing the benefit, privilege, government service



Rents

A charge for entrance to or use of local government property, or the purchase, rental, or lease of local government property. not provided to those not charged

- "reasonable cost" and waiver/discount limits do not apply
- may charge whatever the market will bear

Fee for use of community amphitheater
♦ discounted for non-profit groups

Fee for use of city owned boats at city reservoir
♦ discounted for local residents

Bridge toll
♦ waived for high occupancy vehicles

- Rates do not have to be cost justified
- Revenue may be used for general purposes



Fines and Penalties

A fine, penalties, or other monetary charge imposed by a court or local government as a result of a violation of law.

Five percent **charge for late payment** of water utility bill.

Fine of \$1,500 for violation of regulation prohibiting any person from **throwing a lighted cigarette** onto park property

Water conservation fine on over users, a portion used to fund a rebate program for the installation of low volume water fixtures.





Capital Financing and Debt Management



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Examples of Capital Assets

Facilities

Vehicles and
Equipment

Land and
improvements

Infrastructure
(water, sewer,
streets)





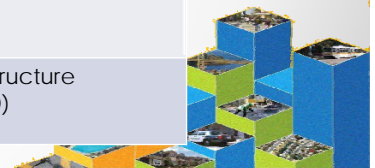
Pay as You Go (Pay-Go) *versus* Pay as You Use (Debt)

Pay-as-You-Go (Cash)	Pay-as-You-Use (Debt)
<ul style="list-style-type: none"> ✓ Costs should not be imposed on future residents who have no say in the matter. ✓ Increasing debt outstanding may increase interest costs on future projects. ✓ The substantial savings in issuance and interest costs can be used to pay for operations or additional facilities. ✓ Using current revenues and sinking funds and to save for future asset needs encourages good financial management and planning. ✓ A greater legacy in the form of paid-up facilities is provided to future residents. 	<ul style="list-style-type: none"> ✓ An agency may not have the fiscal capacity to provide sufficient funds from current revenue — especially for large assets. ✓ Payment of costs can be synchronized with enjoyment of the benefits, or the useful life of the asset financed. ✓ In an inflationary economy, the average dollars in which funds are repaid may be of lesser value than those which are borrowed. ✓ Prudent use of debt financing allows a municipality more opportunities to use cash on hand.



Financing Capital Facilities

Source/Tool	Approval Rules	Notes
Developer fees & exactions	Condition of development	✓ Limited, one time
User Fees (Revenue Bond)	Majority protest for water, sewer, refuse	✓ Use limited to purpose of fee
General Obligation Bonds (property tax)	2/3 voter approval (citywide)	<ul style="list-style-type: none"> ✓ <i>ad valorem</i> tax increase ✓ Lowest interest cost ✓ Needs big communitywide interest
Special Benefit Assessment	Majority protest of payers (weighted)	<ul style="list-style-type: none"> ✓ "special benefit" to property that pays ✓ also for maintenance
C.F.D. Special (Parcel) Tax	2/3 voter approval - if <12 voters by landowner weighted vote	✓ also for maintenance, services
Certificates of Participation (COPs), Lease Rev. Bonds	City Council majority vote	✓ Contingent lease or installment sale
Tax Increment (R.I.P redevelopment)	55% of voters or within district for debt. If <12 voters, by landowners	✓ New Enhanced Infrastructure Financing District (EIFD)



New Infrastructure Financing Tools after the Redevelopment Apocalypse

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Enhanced Infrastructure Financing Districts (EIFDs)

SB628 (Beall) in 2014

Uses: public facilities and “projects of communitywide significance” purchase, construction, expansion, improvement, seismic retrofit of real or tangible property with a useful life of 15 years or greater:

- ✓ Highways, interchanges, ramps and bridges, arterial streets, parking and transit facilities
- ✓ Sewage treatment, water reclamation plants and interceptor pipes
- ✓ Facilities for the transfer and disposal of solid waste, including transfer stations and vehicles
- ✓ Facilities to collect and treat water for urban uses
- ✓ Flood control levees and dams, retention basins, and drainage canals
- ✓ Parks, recreational facilities, open space and libraries
- ✓ Brownfield restoration and other environmental mitigation
- ✓ Projects on a closed military base consistent with approved base reuse plans
- ✓ Industrial structures for private use
- ✓ Transit priority projects
- ✓ Projects which implement a *sustainable communities strategy*
- ✓ Mixed-income housing developments
- ✓ Facilities constructed to house providers of consumer goods and services
- ✓ Child care facilities

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Enhanced Infrastructure Financing Districts (EIFDs)

SB628 (Beall) in 2014

- Property tax increment of city* <= primary revenue
...including Property-Tax-in-Lieu-of-VLF
- Property tax increment of partner agencies (but NOT schools)
e.g. county, special districts
- May combine with fees, assessments, grants, etc.
- Polanco Act Powers (for toxic remediation)
- Debt issuance --55% approval of voters in district
- May include area of a former Redevelopment Agency
- Must have Redevelopment Agency "Finding of Completion,"
compliance with State Controller audit findings,
conclusion of any outstanding legal issues.

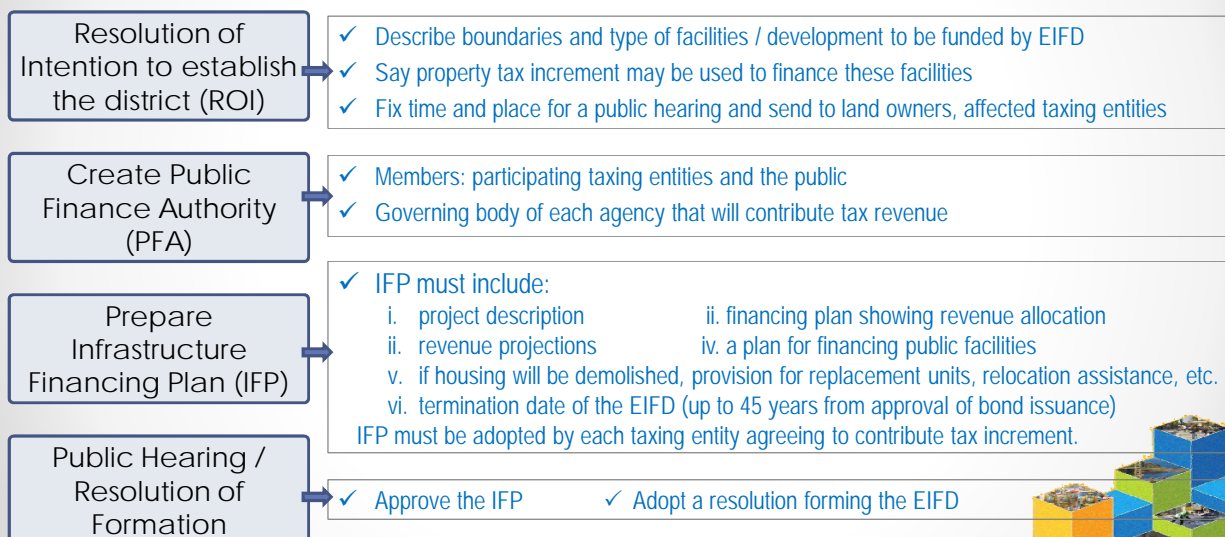


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Enhanced Infrastructure Financing Districts (EIFDs)

SB628 (Beall) in 2014

Formation by a city or county



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Community Revitalization and Investment Authorities (CRIAs)

AB2 (Alejo) in 2015

Uses: May plan and fund:

- ✓ Rehabilitation, repair, upgrade or construction of public infrastructure
- ✓ brownfields cleanup
- ✓ low- and moderate-income housing
- ✓ seismic retrofits of existing buildings
- ✓ owner or tenant improvement loans
- ✓ assistance to businesses for certain industrial and manufacturing uses.

- May issue long term debt, backed by property tax increment. Voter approval is not required
- 25% of tax increment must be used to increase, improve, preserve affordable housing
- May use eminent domain



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Community Revitalization and Investment Authorities (CRIAs)

AB2 (Alejo) in 2015

May be used in a revitalization area w/ 80%:

- ✓ An annual median household income is less than 80% statewide annual median income
- ✓ Three of the four following conditions:
 1. A nonseasonal unemployment rate 3% higher than the statewide median
 2. Crime rate 5% higher than the statewide median
 3. Deteriorated or inadequate infrastructure: streets, sidewalks, water, sewer, parks
 4. Deteriorated commercial or residential structures.

Or... a former military base.



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