

Senate Bill No. 1477

CHAPTER 220

An act to amend Section 53753 of the Government Code, relating to local government assessments.

[Approved by Governor August 21, 2000. Filed with Secretary of State August 22, 2000.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1477, Lewis. Local government assessment ballots.

Existing law, contained in the Proposition 218 Omnibus Implementation Act, requires any local government agency, prior to levying a new or increased real property assessment, or an existing assessment that is subject to the procedures and approval process set forth in Section 4 of Article XIII D of the California Constitution, to give notice by mail to the record owner of each identified parcel of real property, and to include therewith an assessment ballot which may be used by the recipient to cast a vote either in favor or against the proposed assessment.

Existing law requires the local agency to conduct a public hearing on the proposed assessment and to tabulate the assessment ballots submitted at the conclusion of that hearing to determine if a majority protest exists, in which case the proposed assessment shall not be levied.

This bill would require that each assessment ballot be in a form that conceals its contents once it is sealed by the person submitting the ballot. This bill would also require generally that all assessment ballots remain sealed until the tabulation of ballots following the public hearing. This bill would require the tabulation of ballots to be conducted by an impartial person designated by the agency who does not have a vested interest in the outcome of the assessment, and would require the assessment ballots to be treated as disclosable public records equally available for inspection by the proponents and the opponents of the proposed assessment.

The people of the State of California do enact as follows:

SECTION 1. Section 53753 of the Government Code is amended to read:

53753. (a) The notice, protest, and hearing requirements imposed by this section supersede any statutory provisions applicable to the levy of a new or increased assessment that is in existence on the effective date of this section, whether or not that provision is in conflict with this article. Any agency that complies with the notice,



protest, and hearing requirements of this section shall not be required to comply with any other statutory notice, protest, and hearing requirements that would otherwise be applicable to the levy of a new or increased assessment, with the exception of Division 4.5 (commencing with Section 3100) of the Streets and Highways Code. If the requirements of that division apply to the levy of a new or increased assessment, the levying agency shall comply with the notice, protest, and hearing requirements imposed by this section as well as with the requirements of that division.

(b) Prior to levying a new or increased assessment, or an existing assessment that is subject to the procedures and approval process set forth in Section 4 of Article XIII D of the California Constitution, an agency shall give notice by mail to the record owner of each identified parcel. Each notice shall include the total amount of the proposed assessment chargeable to the entire district, the amount chargeable to the record owner's parcel, the duration of the payments, the reason for the assessment and the basis upon which the amount of the proposed assessment was calculated, and the date, time, and location of a public hearing on the proposed assessment. Each notice shall also include, in a conspicuous place thereon, a summary of the procedures for the completion, return, and tabulation of the assessment ballots required pursuant to subdivision (c), including a statement that the assessment shall not be imposed if the ballots submitted in opposition to the assessment exceed the ballots submitted in favor of the assessment, with ballots weighted according to the proportional financial obligation of the affected property. An agency shall give notice by mail at least 45 days prior to the date of the public hearing upon the proposed assessment.

(c) Each notice given pursuant to subdivision (b) shall contain an assessment ballot that includes the agency's address for receipt of the form and a place where the person returning the assessment ballot may indicate his or her name, a reasonable identification of the parcel, and his or her support or opposition to the proposed assessment. Each assessment ballot shall be in a form that conceals its contents once it is sealed by the person submitting the assessment ballot. Each assessment ballot shall be signed and either mailed or otherwise delivered to the address indicated on the assessment ballot. Regardless of the method of delivery, all assessment ballots shall be received at the address indicated, or the site of the public testimony, in order to be included in the tabulation of a majority protest pursuant to subdivision (e). Assessment ballots shall remain sealed until the tabulation of ballots pursuant to subdivision (e) commences, provided that an assessment ballot may be submitted, or changed, or withdrawn by the person who submitted the ballot prior to the conclusion of the public testimony on the proposed assessment at the hearing required pursuant to subdivision (d). An agency may provide an envelope for the return of the assessment ballot, provided



that if the return envelope is opened by the agency prior to the tabulation of ballots pursuant to subdivision (e), the enclosed assessment ballot shall remain sealed as provided in this section.

(d) At the time, date, and place stated in the notice mailed pursuant to subdivision (b), the agency shall conduct a public hearing upon the proposed assessment. At the public hearing, the agency shall consider all objections or protests, if any, to the proposed assessment. At the public hearing, any interested person shall be permitted to present written or oral testimony. The public hearing may be continued from time to time.

(e) (1) At the conclusion of the public hearing conducted pursuant to subdivision (d), an impartial person, including, but not limited to, the clerk of the agency, designated by the agency who does not have a vested interest in the outcome of the proposed assessment shall tabulate the assessment ballots submitted, and not withdrawn, in support of or opposition to the proposed assessment. The impartial person may use technological methods of tabulating the assessment ballots, including, but not limited to, punchcard or optically readable (bar-coded) assessment ballots. During and after the tabulation, the assessment ballots shall be treated as disclosable public records, as defined in Section 6252, and equally available for inspection by the proponents and the opponents of the proposed assessment.

In the event that more than one of the record owners of an identified parcel submits an assessment ballot, the amount of the proposed assessment to be imposed upon the identified parcel shall be allocated to each ballot submitted in proportion to the respective record ownership interests or, if the ownership interests are not shown on the record, as established to the satisfaction of the agency by documentation provided by those record owners.

(2) A majority protest exists if the assessment ballots submitted, and not withdrawn, in opposition to the proposed assessment exceed the assessment ballots submitted, and not withdrawn, in its favor, weighting those assessment ballots by the amount of the proposed assessment to be imposed upon the identified parcel for which each assessment ballot was submitted.

(3) If there is a majority protest against the imposition of a new assessment, or the extension of an existing assessment, or an increase in an existing assessment, the agency shall not impose, extend, or increase the assessment.

(4) The majority protest proceedings described in this subdivision shall not constitute an election or voting for purposes of Article II of the California Constitution or of the California Elections Code.

