

## An Overview of Local Revenue Measures in California Since 2001

### Voter Approval of Local Taxes

In November, 1996, California voters approved Proposition 218, “The Right to Vote on Taxes Act.” Together with its tax limitation predecessors, Proposition 13 (1978) and Proposition 62 (1986), Proposition 218 substantially expanded restrictions on local government revenue-raising including taxes, assessments, and property related fees. With regard to taxes, Article XIII of the California State Constitution now provides a clear standard distinguishing locally imposed general taxes from special taxes and requires majority voter approval for general taxes and a two-thirds supermajority requirement for special taxes.<sup>1</sup> Parcel taxes, non-value-based taxes on real property, require two-thirds supermajority voter approval.

Two-thirds voter approval is also required for general obligation bonds. The proceeds of these bonds must be used for the acquisition or improvement of real property. Voter approved rates levied for the debt service of these bonds may be in addition to the limit on ad valorem property taxes of one percent of full cash value of a property. In November 2000, California voters passed Proposition 39, reducing to 55 percent the two-thirds supermajority needed to pass certain school bonds. School bond measures qualify for the lower 55 percent approval threshold if they meet Proposition 39’s restrictions on the allowable amount of the bond and include certain accountability provisions.

#### Approval Requirements for Local Taxes

	City	County	Special District	School District	<u>Approval Required</u>
General Tax	✓	✓	-	-	majority
Special Tax	✓	✓	✓	-	2/3 supermajority
Parcel Tax	✓	✓	✓	✓	2/3 supermajority
G.O. Bond	✓	✓	✓	✓	2/3 supermajority
55% Vote Bond	-	-	-	✓	55%

✓ = May propose.

The types of taxes that may be proposed are further limited in law.

<sup>1</sup> Under Proposition 13 (1978), a special tax requires the approval of two-thirds of voters. The In 1982, the state Supreme Court decided *City and County of San Francisco v. Farrell*, which defined the term special tax as any tax earmarked for a specific purpose. majority approval requirement for general taxes was previously established for general law cities by Proposition 62 (1986).

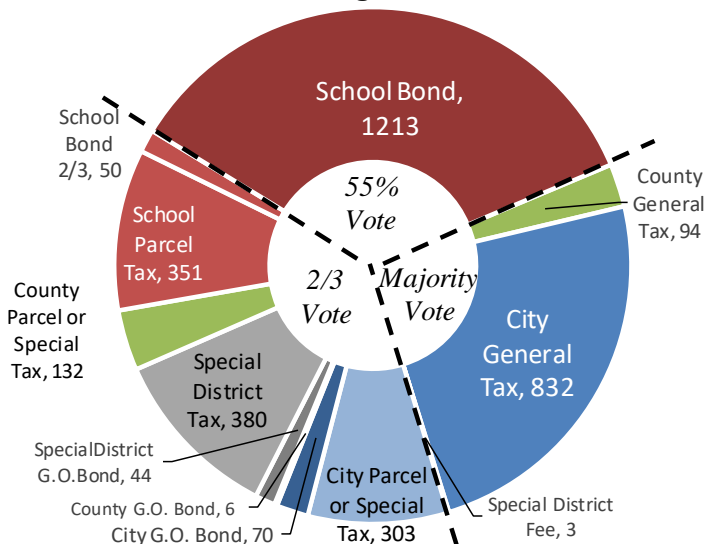
## Proposed Local Measures

Since 2001 and through the November 2016 election, over 3,500 local revenue measures have been placed before local voters concerning school, city, county or special district taxes or bonds. Over a quarter of these measures concerned city or county general purpose taxes requiring majority voter approval; about a third were 55 percent approval school bonds; and the rest were parcel tax or special tax measures requiring two-thirds supermajority approval.

<b>Local Revenue Measures Since 2001</b>			
<b>Through November 2016</b>			
	Total	Pass	Passing%
City Majority Vote	832	612	74%
County Majority Vote	94	53	56%
SpecialDistr Fee MajVote	3	2	67%
City 2/3 Vote	373	191	51%
County 2/3 Vote	138	60	43%
Special District (2/3)	424	196	46%
School ParcelTax2/3	351	228	65%
SchoolBond 2/3Vote	50	17	34%
School Bond 55%	1213	1026	85%
<b>Total</b>	<b>3478</b>	<b>2385</b>	<b>69%</b>

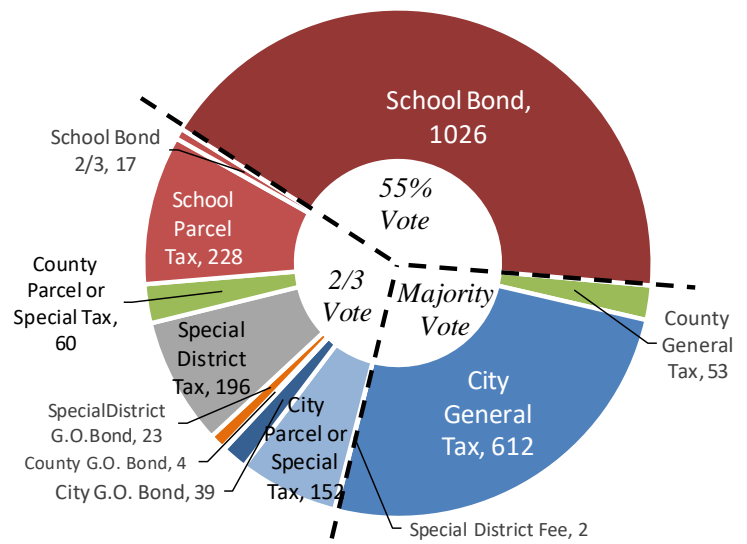
Despite their general purpose use, majority vote tax measures have been more likely to pass than supermajority vote special tax measures.<sup>2</sup> Nearly three quarters of city general measures over half of county general measures passed. But fifty-five percent school bonds have been the most successful with more than four out of five passing.

### Proposed Local Revenue Measures Since 2001 through November 2016



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### Approved Local Revenue Measures Since 2001 through November 2016

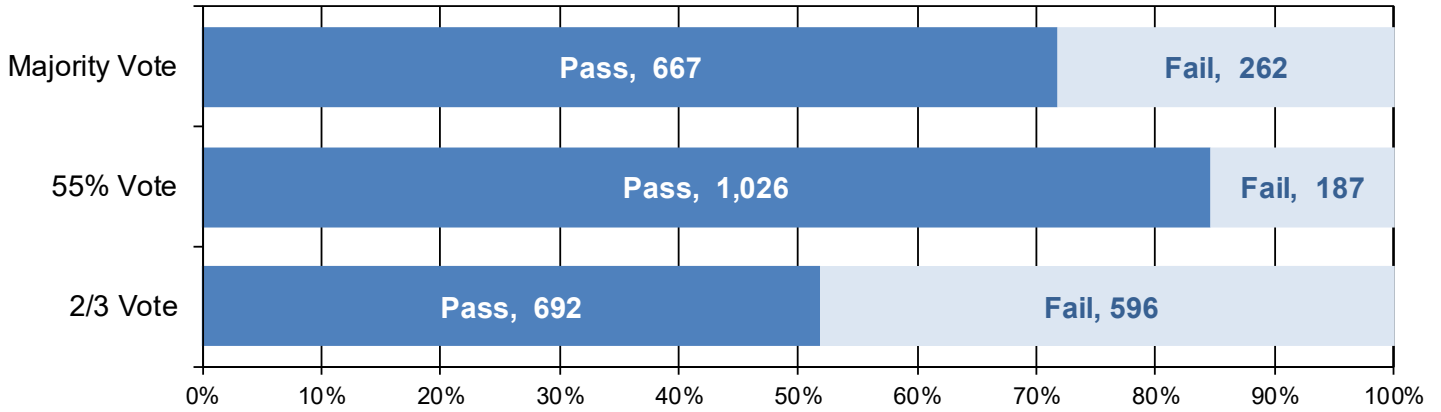


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<sup>2</sup> There were three majority vote special district measures concerning fee increases. Unlike general purpose taxes, fee revenues are restricted in use.

### Local Revenue Measures - 2002 through November 2016

Cities, Counties, Special Districts and K-14 Schools



"Fail 55%+" = measure received over 55% yes votes but did not achieve the 2/3 approval needed to pass.  
 "Fail<55%" = measure received less than 55% yes votes.

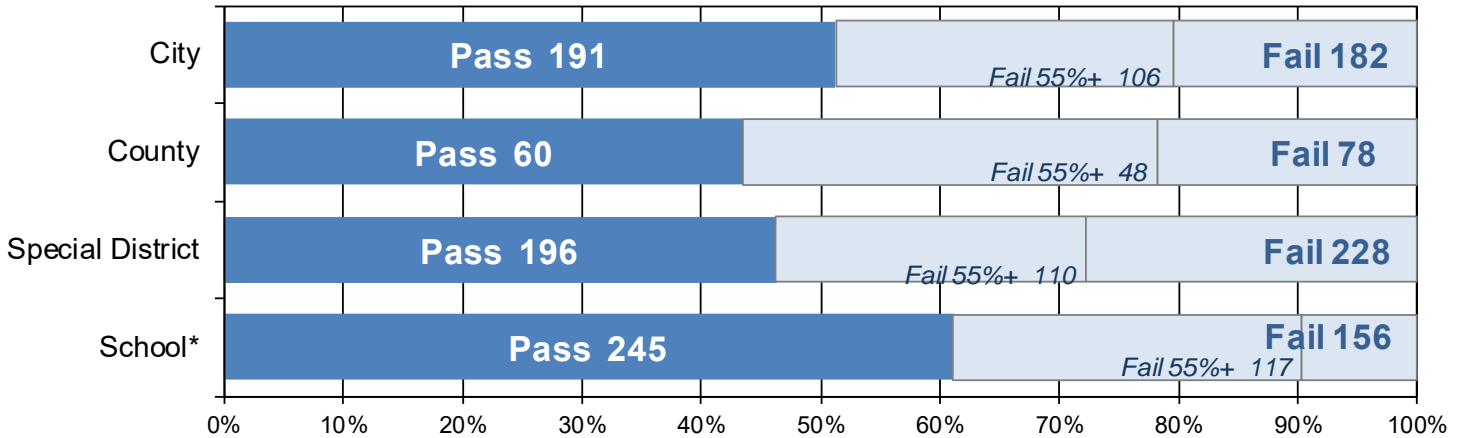
-Michael Coleman CaliforniaCityFinance.com

### Super-Majority Measures

Overall, half of two-thirds vote measures have succeeded. But non-school two-thirds vote special taxes and bonds were successful less than half the time whereas three out of five school parcel tax measures passed. A 55% vote threshold would apparently have made a dramatic difference in passage rates.

### Local Special Tax and G.O. Bond Measures - 2002 through November 2016

Cities, Counties, Special Districts and K-14 Schools



\*School measures included here include parcel taxes and 2/3 vote bonds. Excludes 55% vote bonds.

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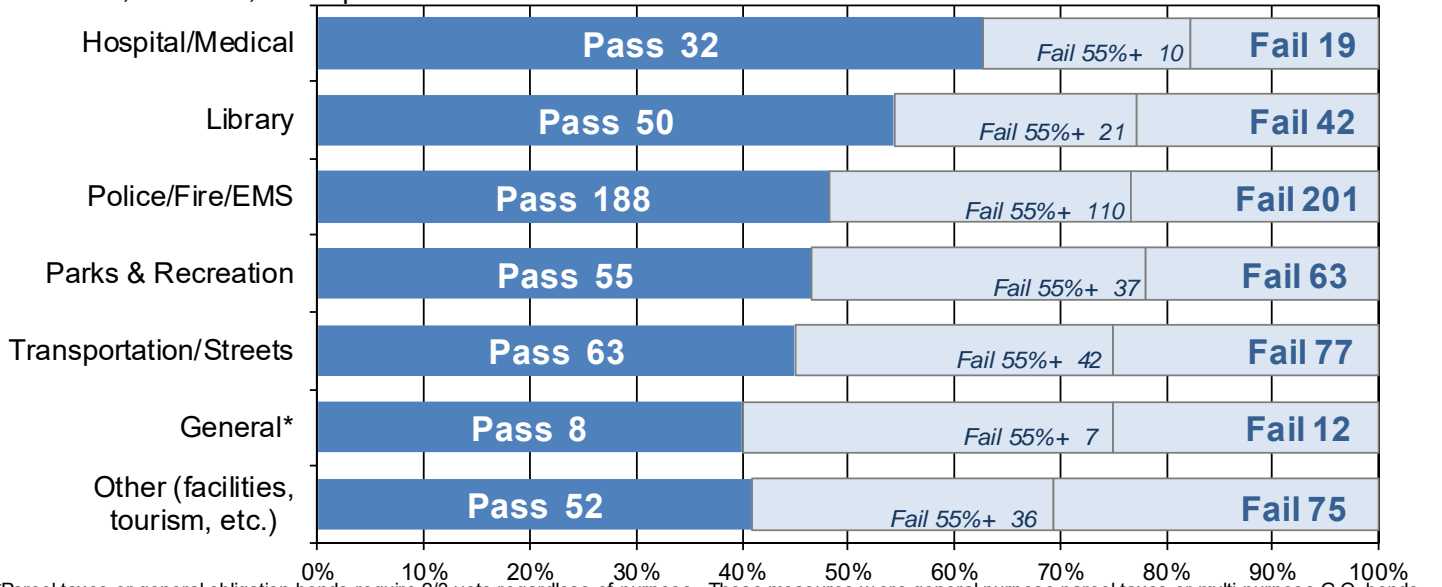
"Fail<55%" = measure received less than 55% yes votes.

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Among the 689 non-school special tax and bond measures, the most common were designated for police, fire or emergency medical services. Over half of the failing special tax or bond measures garnered more than 55% "yes" votes.

## Local Special Tax & G.O. Bond Measures - 2002 through November 2016

Cities, Counties, and Special Districts



\*Parcel taxes or general obligation bonds require 2/3 vote regardless of purpose. These measures were general purpose parcel taxes or multi-purpose G.O. bonds.

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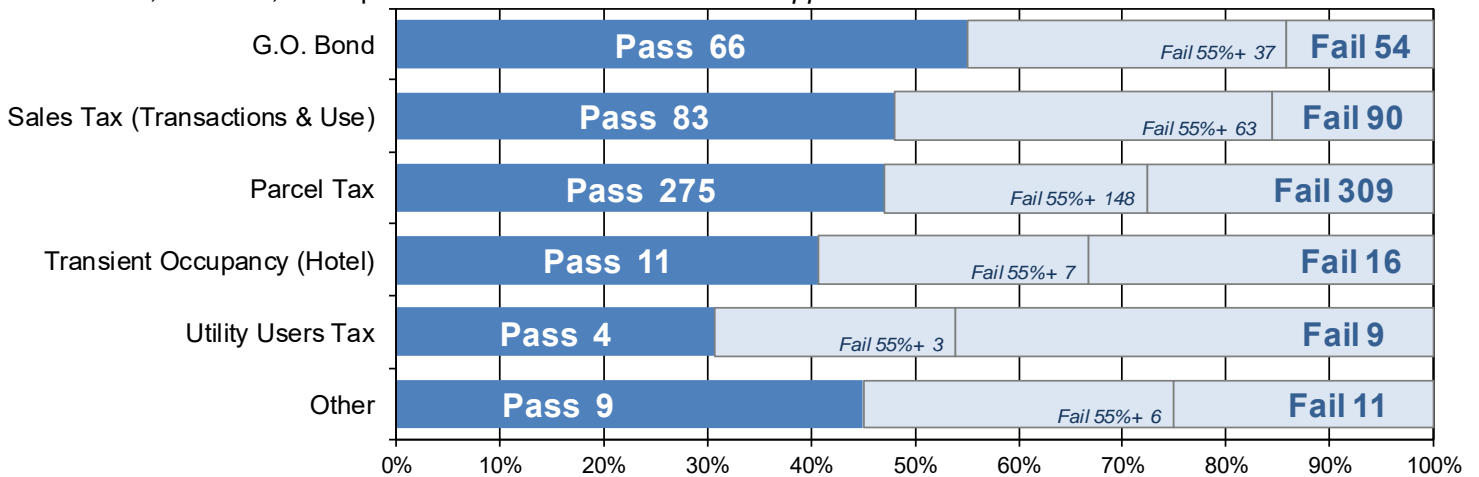
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Among the non-school special tax measures, nearly 2 out of 3 were parcel taxes. Fewer than half of these passed, but over 70% garnered greater than 55% voter approval. G.O. Bond measures fare only slightly better and two-thirds vote earmarked sales tax and hotel tax measures have fared much worse than their general purpose counterparts. Nearly nine out of ten general obligation bond measures received more than 55% yes votes.

## Local Special Tax & G.O. Bond Measures - 2002 through November 2016

Cities, Counties, and Special Districts - two-thirds voter approval



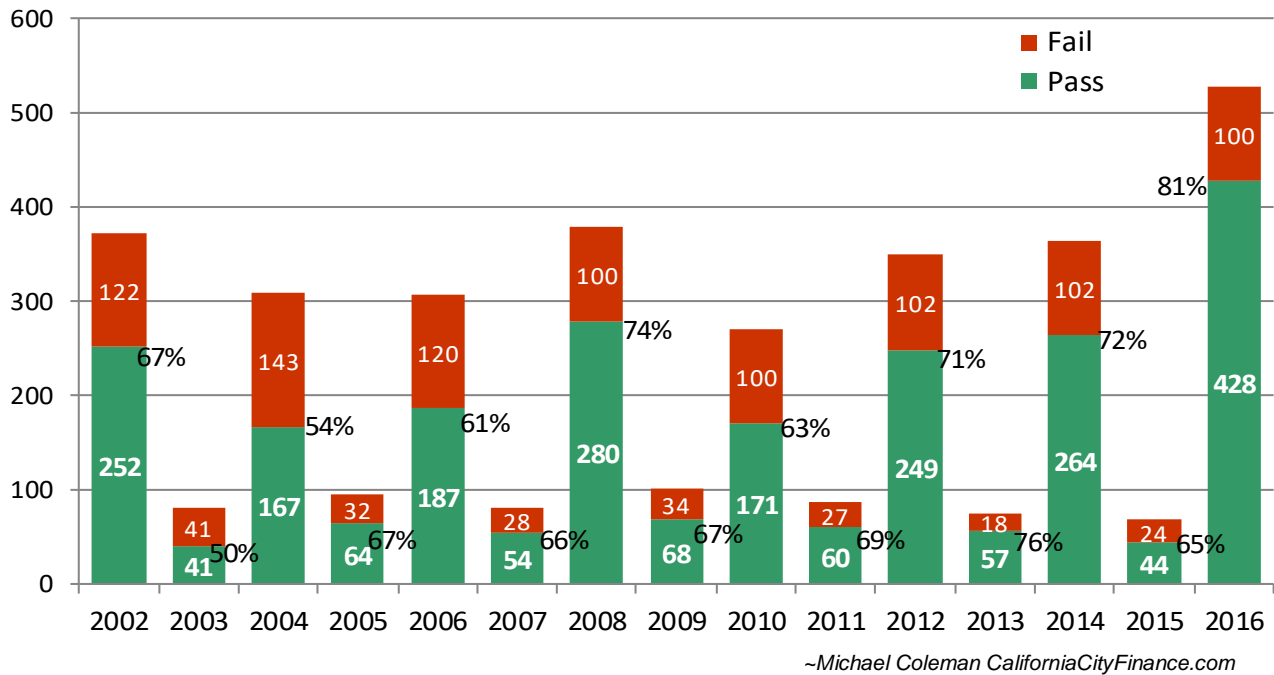
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"Other" includes parking taxes, business license taxes, property transfer taxes and other special taxes.

## Local Tax and Bond Measures - 2002 through November 2016

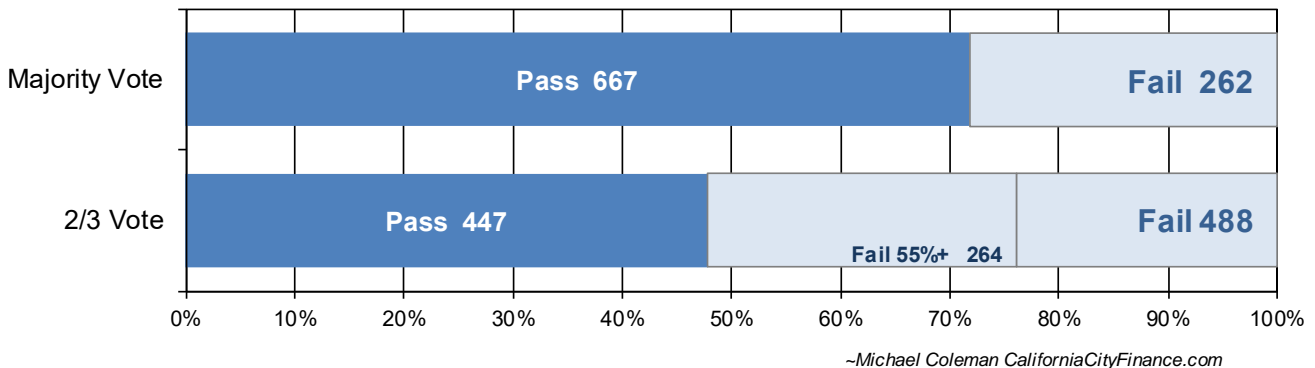


## Non-School Local Measures – Majority vs Special

Aside from the variety of fees, assessments, and other revenue raising methods, local governments - especially cities and counties – have a variety of tax options. Over time, many areas of taxation once available to localities have been “occupied” by the state of California and made off limits to localities. These include: personal and corporate income taxes, cigarette taxes, liquor taxes, and taxation of motor vehicles. Among the local options still available, the most common appearing on ballots are utility user taxes, hotel taxes and so-called add-on sales taxes. But well over one-third of local measures are parcel taxes.

### Local Revenue Measures 2002 through November 2016

Cities, Counties, and Special Districts



Among the measures proposed by cities, counties and special districts, two out of three majority vote measures passed.<sup>3</sup> Only 47 percent of the two-thirds supermajority vote measures passed. However, a substantial portion of the losing two-thirds supermajority vote measures achieved a clear majority of “yes” votes. In fact, if 55 percent had been the constitutional standard for approval rather than two-thirds, three out of four (75 percent) might have passed.

As for voter thresholds, a lower vote threshold would clearly have a big effect on the success rate of these local tax measures. A lower vote threshold, such as 55 percent, would also entice more municipalities to choose to legally earmark their taxes, rationalizing that the additional yes votes from such an earmarking would exceed the additional five percent yes vote needed for passage.

The number and rates of passage of local tax and bond measures have not changed significantly since 2002.

## **Parcel Taxes – Cities, Counties and Special Districts**

A parcel tax is an excise tax on real property that is based on either a flat per-parcel rate or a rate that varies depending upon use, size, and/or number of units on each parcel. Any increase or extension of a parcel tax by a local government in California requires the approval two-thirds of the voters. Forty-five percent of the 396 parcel tax measures passed. Nearly half of those that failed achieved over 55 percent “yes” votes.

Parcel taxes may be imposed for any municipal purpose. Over half of the proposed parcel taxes since 2001 have been for public safety or medical services including law enforcement, gang suppression, fire suppression and prevention, emergency medical and hospital services, equipment and facilities. Although there are many factors that determine the success or failure of a ballot measure, some uses of funds appear to be more successful than others. Generally, measures for fire and emergency medical services were more successful than others. The most successful measures were more broad-based public safety measures which permitted use of the funds for fire, medical and police services.

## **General Obligation Bonds – Cities, Counties and Special Districts**

Except for certain school measures, general obligation bond measures require approval of two-thirds of voters. Since 2001 there have been 120 non-school local general obligation bond measures in California.

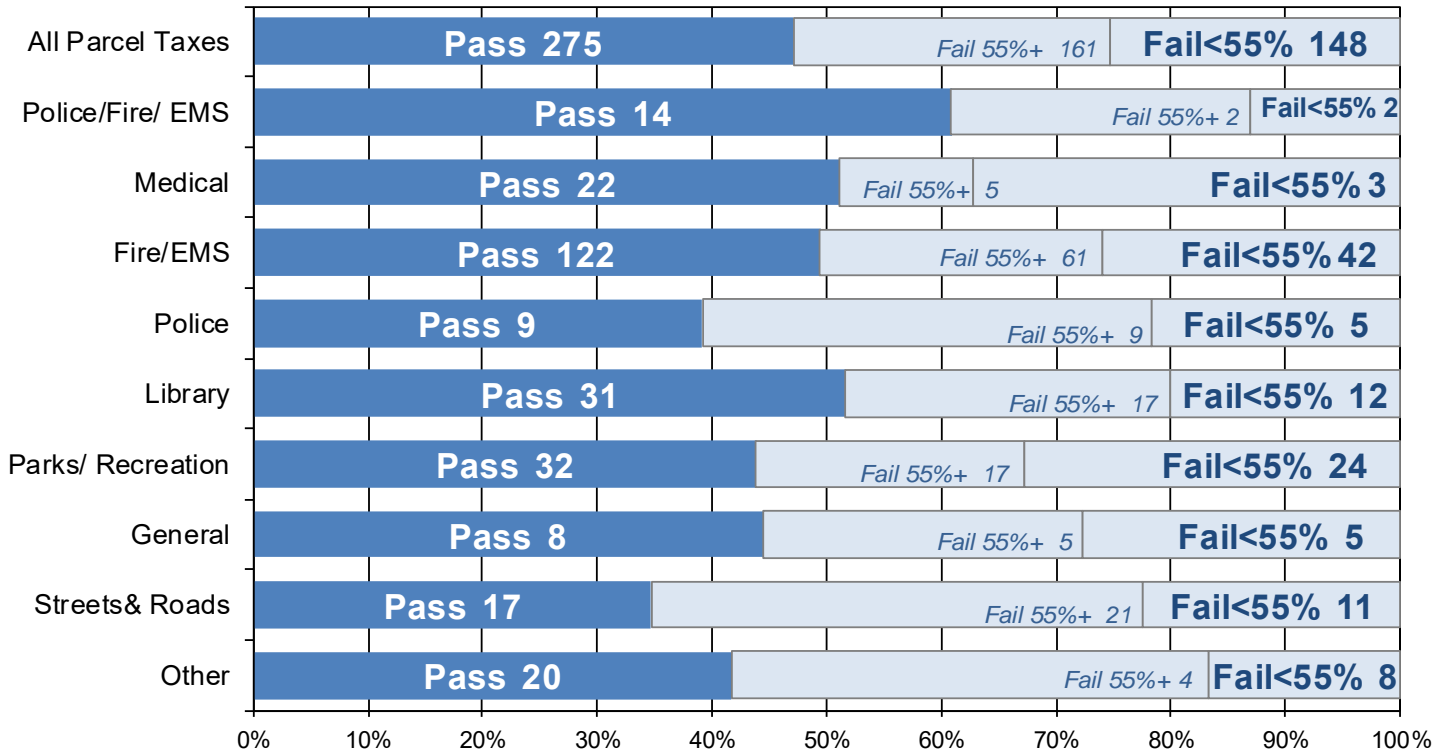
About half, 66, of the 120 measures passed. Among the 54 failing measures, 37 received more than 55 percent “yes” votes and all but four received majority voter approval.

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<sup>3</sup> Special districts may not impose general taxes. Taxes imposed by special districts are special taxes.

## Parcel Tax Measures - 2002 through November 2016

Cities, Counties and Special Districts - two-thirds voter approval



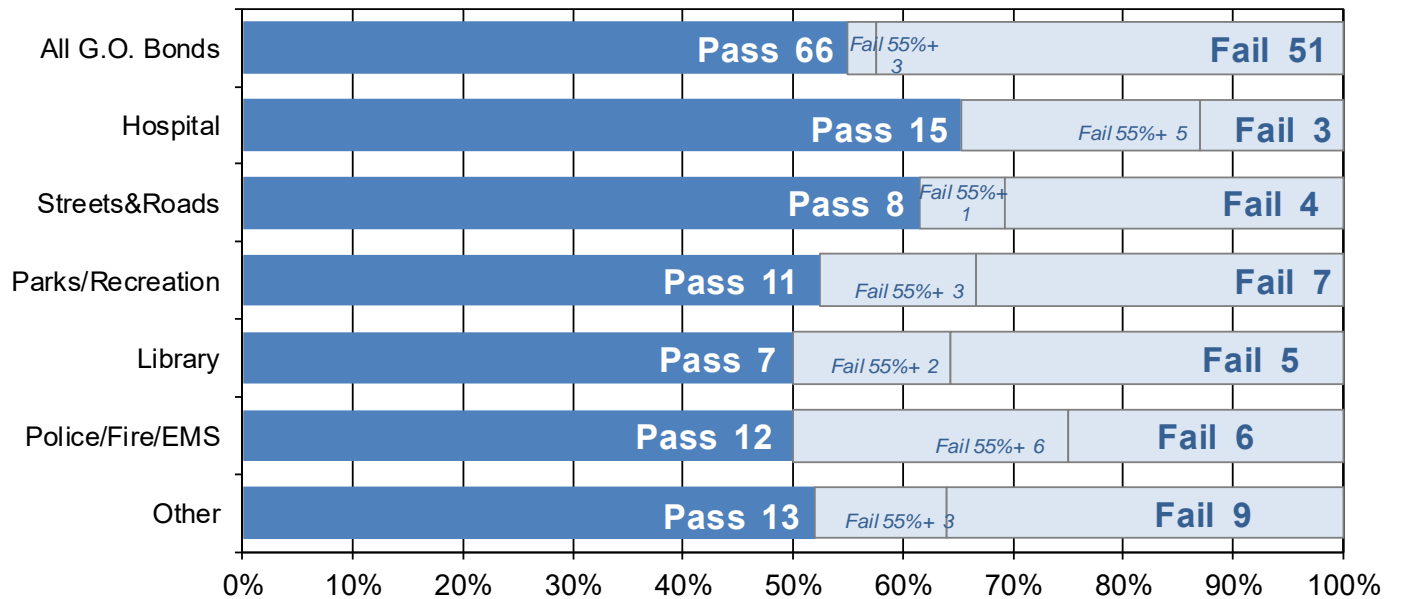
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## General Obligation Bond Measures - 2002 through November 2016

Cities, Counties and Special Districts - two-thirds voter approval



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## Utility User Taxes

Every city in California levies the basic 1% local Bradley Burns Sales & Use Tax. Nearly every city in California levies a business license tax and a hotel tax (transient occupancy tax). But of the 482 incorporated cities in California, 150 levy a tax on the users of utility services such as gas, electric, water, cable TV or telecommunications services.

In the wake of the severe revenue constraints brought in part by Proposition 13, many communities considered adopting a utility user tax. During the first 25 years following the passage of Proposition 13, UUTs were the most common area of new taxation by cities. The passage of Proposition 218 in 1996 made all local tax increases – including UUTs – subject to voter approval.

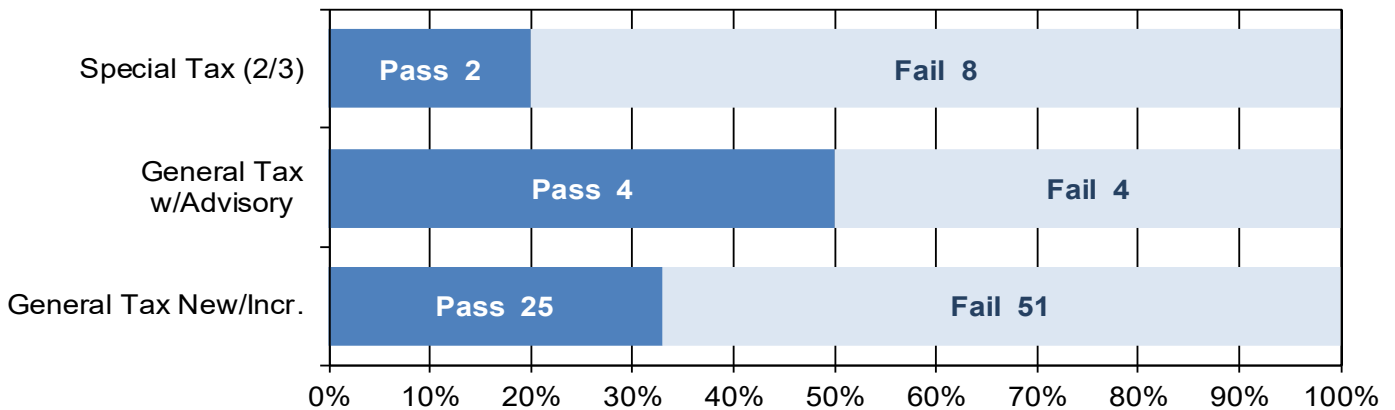
Since 2001 there have been 216 local measures concerning UUTs, but just 83 of these were proposals to increase or adopt a new tax. Other UUT measures proposed to extend, validate or modernize previously approved rates.

### A. UUTs: Proposals for New or Increased Rates

All but one of the 83 measures to increase or adopt a new UUT since 2001 were by cities. The lone exception was a special UUT by the proposed Isla Vista Community Services District, a loan statutory exception allowing a special district to proposed a UUT. Nine of the city measures were special taxes designated for a specific purpose and requiring two-thirds voter approval. Among the 74 city general tax measures, eight were accompanied by advisory measures indicating the use of the funds, the so-called “a/b strategy.”

Utility User taxes appear far more difficult to pass than other taxes such as add-on sales taxes, UUTs or business license taxes. Based on this limited number of measures, it appears the “a/b” strategy might provide better success in some communities. But this is not borne out in other taxes, such as add-on sales taxes where “a/b strategy” appears to be no more successful than straight forward general tax proposals.

**Utility User Tax Measures - 2002 through November 2016**  
Cities and Counties



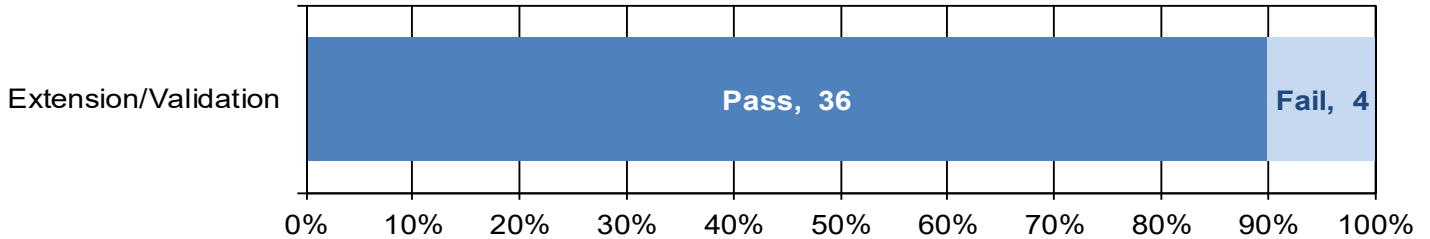


### B. UUTs: La Habra Validations / Continuations

In the years following the passage of Proposition 62 in 1986, the legality of tax increases without voter approval was in dispute. The necessity of voter approval was finally settled in *Santa Clara Local Transportation Authority v. Guardino* (1995), the passage of Proposition 218 in 1996 and *Howard Jarvis Taxpayers Association v. City of La Habra* (2001). A number of cities then placed measures on the ballot to validate – without increasing – taxes that had been previously imposed without voter approval. Other cities have proposed measures to extend – without increasing – existing tax levies that would otherwise sunset. Of the 37 measures since 2001 to extend or validate existing taxes, all but four passed.

#### Utility User Tax Measures - 2002 through November 2016

Cities and Counties

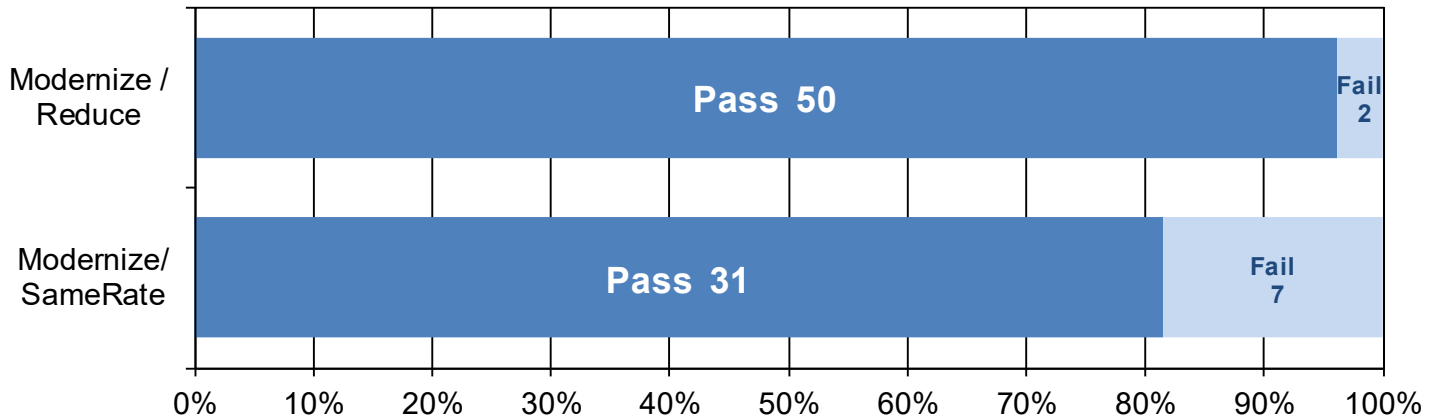


### C. UUT Modernizations

Over the past decade or so, many utility user tax ordinances have fallen out of step with changes in telecommunications technology, billing practices, and federal tax law. In order to continue to apply these taxes to telecommunications users, local UUT laws have needed revision, and in order not to run afoul of the voter approval requirements of Proposition 218, many localities have sought to revise their UUTs with voter approval. Among the 90 measures to modernize and expand UUTs to cover new telecommunications technologies, 38 maintained the same tax rate, but 52 accompanied the revision/expansion with a small reduction in the UUT rate on telecommunications.

#### Utility User Tax Measures - 2002 through November 2016

Cities and Counties



Among these 90 UUT modernization measures, just nine have failed and each of these failures had unique story. For example, in March 2007, voters in the City of Covina – where controversy over the city’s UUT has a lengthy history - rejected a UUT modernization proposal. But in June 2008, following a better effort by supporters, Covina voters approved a UUT modernization measure maintaining the 5% rate.

### D. UUT-911 Validations

A number of years ago, several cities imposed new charges on telephone customers to cover the costs of 911 emergency call center operations. These agencies imposed these charges as regulatory fees. Unlike taxes, regulatory fees may be approved by a majority of a city council or board of supervisors and do not require voter approval. Subsequent court decisions cast the legality of these fees into doubt and in response, a number of agencies put their charges up to voter approval. Three of the five proposed measures passed.

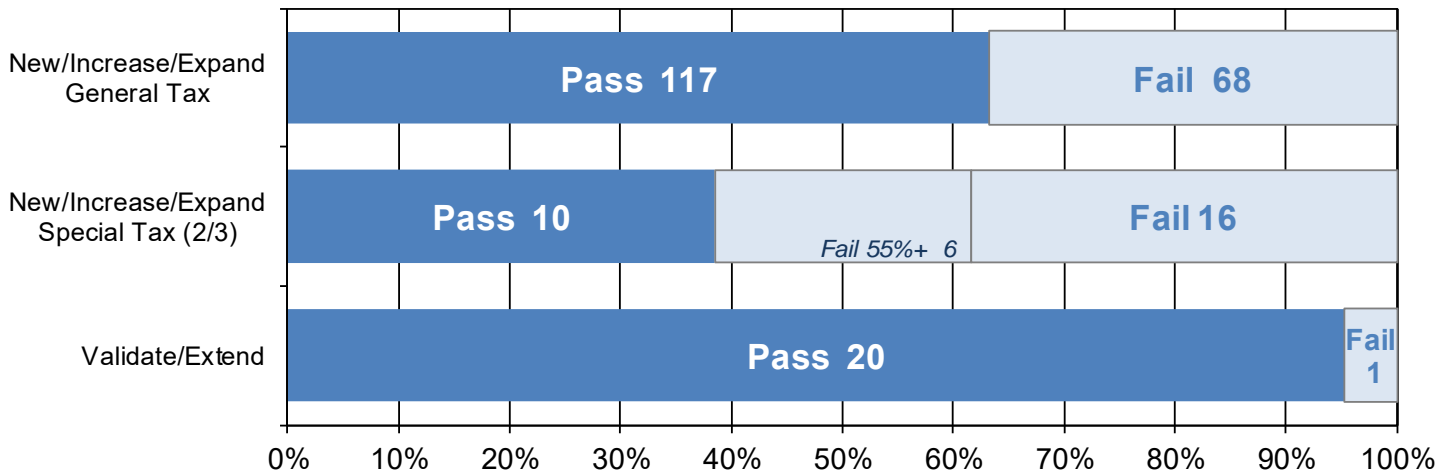
## Transient Occupancy (Hotel) Taxes

Nearly every city and county in California imposes a tax on hotels, motels and other short term accommodations. Commonly called “hotel taxes,” they are called Transient Occupancy Taxes (TOT) in California law. Since 2001 there have been 232 measures to expand or increase TOTs including 167 city measures and 38 county measures. Most (211) of these proposals sought to increase a TOT rate, establish a new TOT, or expand an existing TOT to a new class of rate payers such as vacation properties or campgrounds. Others sought to validate or extend (beyond a sunset date) an existing tax rate.

Twenty-six of the new/increase/expand proposals were earmarked for a particular purpose, typically tourism development, making these measures special taxes requiring two-thirds voter approval. Ten of these special tax measures passed, although six of the 16 failing measures achieved more than 55 percent “yes” votes. Of the 185 majority vote general tax TOT proposals, over 60 percent (117) passed. Twenty-one measures sought to validate or extend an existing levied tax. All but one passed.

### Transient Occupancy (Hotel) Tax Measures - 2002 through November 2016

Cities and Counties



## Add-on Sales Taxes (Transactions and Use Taxes)

In 2003, California law was changed to allow cities and counties to seek increases to the sales and use tax. Since that time, these “add-on sales taxes” transactions & use tax additions to the basic sales and use tax have become more and more common.

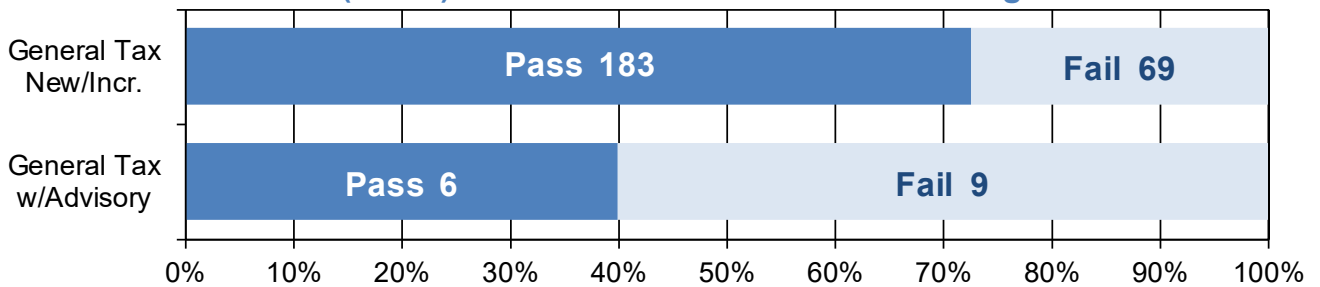
Prior to 2003, the most common transactions and use tax measures were those for a specific countywide need, most commonly transportation. Where approved, these countywide transportation sales taxes must be accompanied with a detailed spending plan and enable counties to receive matching state transportation funds.

A more in depth report on local Add-On Sales Taxes in California may be found at <http://californiacityfinance.com/index.php#SALESTAX>.

### A. General Purpose Add-On Sales Taxes

There have been 267 general-purpose, majority-vote add-on sales tax measures since 2001 to add a ¼, ½, ¾ or 1 percent tax rate. Twenty other measures extended an existing general purpose sales tax rate. Over two-thirds of the tax increases were successful. The success rate for so called A/B advisory measure approaches was slightly worse, suggesting that – at best - this approach typically provides little or no advantage to a measure’s odds of success.

#### Transactions & Use (Sales) Tax Measures General - 2002 through Nov.2016



Most of these measures were by cities. Among the 267 general purpose sales tax increase proposals were just 16 countywide measures of which just four were successful: Del Norte (11/2004), Santa Clara (11/2012), San Mateo (11/2012), and Humboldt (11/2014).

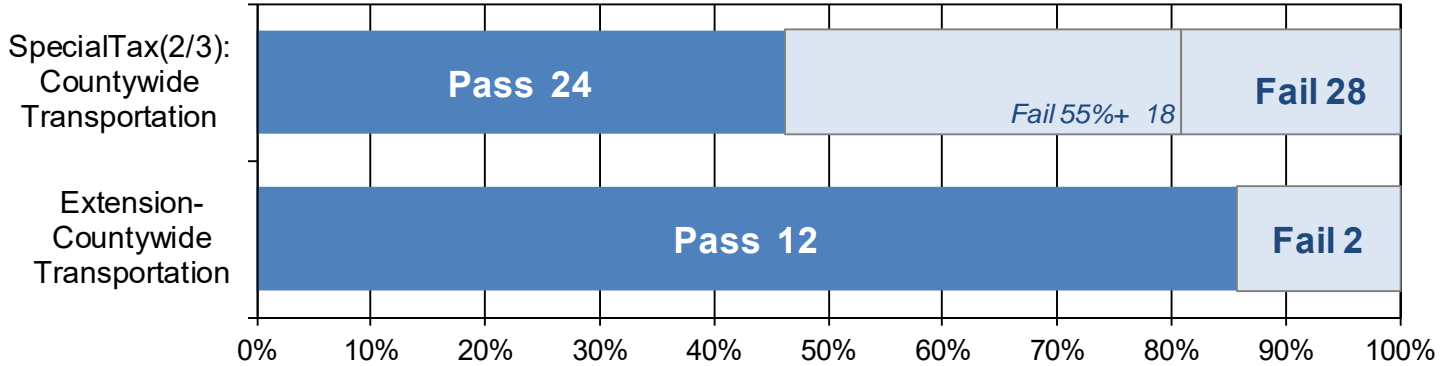
### B. Countywide Transportation Sales Taxes

The original law authorizing the adoption of local “transactions and use tax” add-ons to the combined state and local sales tax rate was adopted in 1969 with the particular intent to provide for regional transportation and public transit funding. The Bay Area Rapid Transit District in the San Francisco Bay Area began its ½ percent rate in April 1970. The Southern California Rapid Transit District followed in July 1970.

Today, countywide Transportation Sales Taxes are levied in 24 counties. Many of these taxes were initially adopted without a public vote. Most have end dates and consequently, due to the 1996 passage of Proposition 218, require two-thirds voter approval to be extended. Among the 14 attempts to extend existing countywide transportation taxes since 2001, only a 2002 measure in

Imperial County and a 2012 measure in Los Angeles failed. A 2006 measure in Santa Barbara County that included both an extension and an increase also failed. In Imperial and Santa Barbara, the measures were re-crafted and passed in November 2008.

### Countywide Transportation Sales Tax Measures - 2002 through November 2016



"Fail 55%+" = measure received over 55% yes votes but did not achieve the 2/3 approval needed to pass.

"Fail <55%" = measure received less than 55% yes votes.

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Proposals for new or increased transportation sales taxes fared less well with just 7 of 26 passing, although 19 of the 26 achieved greater than 55 percent “yes” votes. In several counties, sponsors of failing measures have later returned with similar proposals.

- o Solano County voters have rejected ½ percent transportation sales tax measures on three occasions: November 2002 at 60 percent yes, November 2004 at 64 percent yes, June 2006 at 45 percent yes. In June 2016, Solano county voters rejected Measure S with 44 percent “yes.” The majority vote general purpose measure was accompanied by advisory measure that the funds be used for transportation purposes.
- o Merced County voters also knocked down three: (November 2002 at 61 percent, June 2006 at 63 percent, November 2006 at 61 percent) before approving Measure G in November 2016 with 69 percent yes.
- o In Monterey County, voters in November 2016 narrowly approved Measure X, a 3/8 percent tax, after two prior attempts had been turned back (June 2006 at 57 percent yes, November 2008 at 62 percent yes).
- o Stanislaus County transportation advocates also tried and failed twice (November 2006 at 58 percent, November 2008 at 66 percent) before succeeding in November 2016 with Measure L (71 percent yes).
- o Proposals for new transportation sales taxes have also been turned down in Amador, Kern, Napa and Ventura Counties.

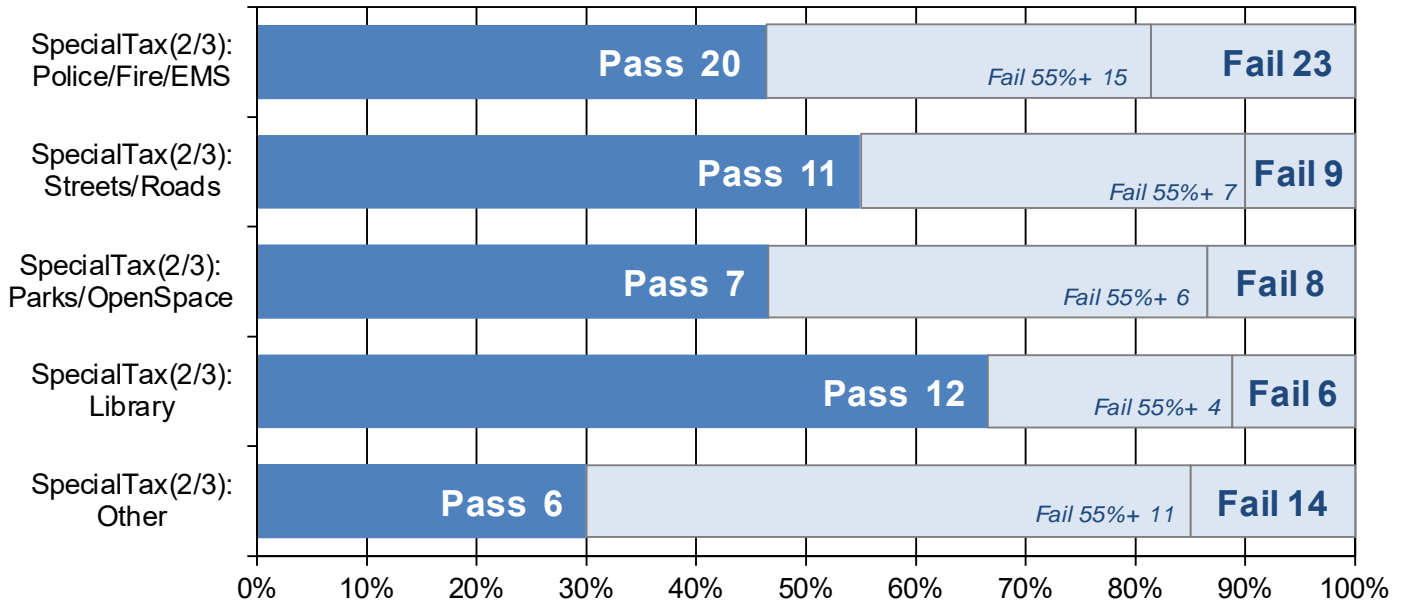
<u>California Self Help Counties</u> (Passed Countywide Transactions & Use Tax for transportation.)	
Alameda	Contra Costa
Fresno	Imperial
Los Angeles	Madera
Marin	Merced (11/2016)
Napa	Monterey (11/2016)
Orange	Riverside
Sacramento	San Bernardino
San Diego	San Francisco
San Joaquin	San Mateo
Santa Barbara	Santa Clara
Sonoma	Stanislaus (11/2016)
Tulare	Santa Cruz (11/2016)

### C. Special Add-On Sales Taxes (Other than countywide transportation)

Since 2001 there have been 115 add-on sales tax measures earmarked for a particular purpose other than countywide transit or transportation. These special taxes require two-thirds voter approval. Proposals dedicated to law enforcement, fire or emergency medical services were the most common. Eighteen of the 40 public safety special taxes passed with all but 8 garnering over 55 percent yes votes.

There were also ten measures to extend existing special purpose add-on sales taxes. Nine of the ten passed. The 2004 extension of a hospital tax in Mariposa County failed.

#### Transactions & Use (Sales) Tax Measures Special Purpose\* - 2002 through Nov.2016



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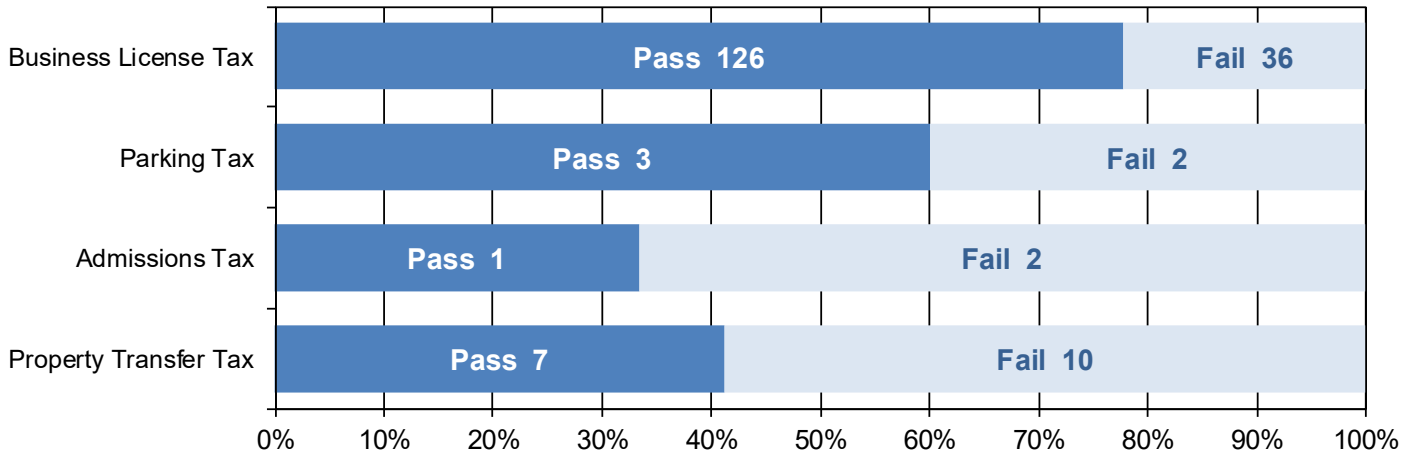
\* Except Countywide Transportation Sales Taxes

### Other Taxes: Business License Tax, Property Transfer Tax, etc.

The various other tax measures proposed include business license, parking, real property transfer and admissions taxes. These measures take a variety of forms and often involve circumstance unique to a particular community. For example, cities near a major airport have sought to increase the taxes on off-street parking businesses and customers. Business License Tax measures are often a combination of higher and lower rates as a part of a larger revision to bring a city or county business license structure up to date.

While most of these measures were general purpose majority vote proposals, these taxes may be proposed as special taxes requiring two-thirds voter approval (see notes below chart).

### Other Tax Measures - 2002 through November 2016 Cities and Counties



Three of the Busn License Tax measures were 2/3vote. One passed, two failed with over 55% vote.

All parking tax and admissions tax measures were majority vote general taxes.

Three of the 17 Property Transfer Tax measures were 2/3 vote special taxes in Berkeley. All failed, getting between 50% and 55% yes.

## Conclusions

This survey of local revenue measures since 2001 leads to some noteworthy observations.

- ✓ A proposal to increase a general purpose tax is more likely to succeed than a special tax. Generally, the additional hurdle of the two-thirds vote exceeds the appeal of dedicating a tax to a specific purpose.
- ✓ Generally speaking, special taxes for broad based public safety services (law enforcement, fire, emergency medical) are more likely to garner two-thirds voter approval than other purposes. Two-thirds parcel taxes for schools are also more successful than not.
- ✓ The so-called a/b advisory vote approach to general tax measures appears to have little effect on the success or failure of a measure.
- ✓ For cities and counties, add-on sales (transactions & use), transient occupancy (hotel), and business license tax increase measures all succeed more often than proposals to increase utility user taxes. UUTs are among the most difficult taxes to pass.
- ✓ Nearly every proposal to modernize existing utility user taxes on telecommunications, including broadening the tax base to cover newer technologies has succeeded, whether the UUT rate is maintained or reduced.
- ✓ Most extensions and revisions of existing taxes that do not increase the rate are successful.

- ✓ Lowering the two-thirds vote approval threshold for special taxes 55 percent would substantially increase the passage rate of these measures, reducing the number of failing measures by half or more.
- ✓ Lowering the two-thirds vote approval threshold for general obligation bonds to 55 percent would have an even more dramatic effect, increasing passage rates from around half to as high as 90 percent. Over 80 percent of fifty-five percent school bonds since 2001 passed.

mjgc

**For More Information:**

- Local tax measures and election results: <http://www.californiacityfinance.com/#VOTES>
- Coleman, Michael, The California Municipal Revenue Sources Handbook, 2014 Edition. Sacramento: League of California Cities, 2008.