THE CALIFORNIA MUNICIPAL REVENUE SOURCES HANDBOOK

2013 Edition

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THE ARTICLE XIIIB APPROPRIATIONS LIMIT

Chapter 10

In November 1979, the voters of California followed up the tax limitations of Proposition 13 (1978) with an amendment to the state Constitution to limit the growth of government spending. Commonly known as the "Gann Initiative" after anti-tax advocate Paul Gann, Proposition 4 created Article XIIIB of the Constitution which provides a formula for calculating spending limits.

In a response to increasing difficulties with the restrictions of Proposition 4, and to increase the accountability of local government in adopting limits, the voters in June 1990 adopted Proposition 111. Among other things, these amendments revise the adjustment formulas.

The League of California Cities, with a task force of experts, prepared and released uniform guidelines for making the necessary calculations under Article XIIIB most recently in 1991. This chapter is an update and revision to those guidelines.

10.01 Article XIIIB: A Summary

The appropriations limitation imposed by Propositions 4 (1979) and later amended by Proposition 111 (1990) creates a restriction on the amount of government revenue which may be appropriated in any fiscal year. The Appropriations Limit is based on actual appropriations during the base year (1986-87 or the first full year of operation), and increases each year using specified growth factors.

The Appropriations Limit applies only to those revenues defined as "proceeds of taxes." Certain expenditures of tax proceeds do not count as Appropriations Subject to Limit including those for voter approved debt, qualified capital outlay, and the costs of complying with court orders and federal mandates.

In order to ensure that taxes are counted in the Appropriations Limit of one but only one agency of government, the law requires that if the State provides funds to a local government for general purposes, the funds are to be counted as "state subventions" and included in the Appropriations Subject to Limit of the local agency. However, if the Legislature restricts the funds to specific purposes, then the funds are counted in the State — rather than local — Appropriations Subject to Limit.

During any fiscal year, a government entity may not appropriate any proceeds of taxes received in excess of the Appropriations Limit of the entity. If a local government receives excess funds in any one year, it may "carry those excess funds into the subsequent year" for use. Any excess funds remaining after the second year must be returned to taxpayers by reducing tax rates or fees. As an alternative, a majority of the voters may approve an "override" to increase the Appropriations Limit. The law allows such an override to last for a maximum of four years.

10.02 What Local Government Funds are Covered?

Article XIIIB attempted to restrict spending at all levels of government in California. The Appropriations Limit applies to "all taxes levied by and for" a government entity. The law applies to the State, as well as to all local governments including "any city, county, city and county, school district, special district, authority, or other political subdivision of or within the State."[1]

The following local governments are not subject to Appropriations Limit requirements:

- Special districts which did not, as of fiscal year 1977-78, levy a property tax in excess of $0.125 per $100 of assessed value.
- Any special district which is entirely funded by other than the proceeds of taxes.
- Redevelopment agency or successor agency property tax increment funds (such agencies do not have the power to levy a property tax).[2]

For most local governments, the funds constrained by Article XIIIB will include the General Fund, the Capital Outlay Fund, and Special Revenue Funds. The source of revenues will determine whether a fund requires a separate Appropriations Limit.

10.03 Determining Your Appropriations Limit

The total annual appropriations subject to limitation of the State and of each local government shall not exceed the appropriations limit of the entity of government for the prior year adjusted for the change in the cost of living and the change in population, except as otherwise provided in this article.

– CAL. CONST. ART XIIIB SEC 1

The Appropriations Limit is the calculated dollar amount which restricts the ability to appropriate proceeds of taxes. The Appropriations Subject to Limitation may not exceed the Appropriations Limit. In its simplest form, the Appropriations Limit for any year is the Appropriations Limit from the previous fiscal year increased for inflation and population growth. Ultimately, the Appropriations limit in a given year depends on the Appropriations Limit for the Base Year (first year of calculation) adjusted annually according to specified factors.

Base Year

The appropriations limit for the Article XIIIB base year is the sum of the Appropriations Subject to Limitation for that year. , Proposition 111 (1989) established Fiscal Year 1986-87 as the Base Year for all governments, rather than the original 1978-79 base year established by Proposition 4 (1979).[3] The base year of a local government entity formed or incorporated on or after January 1, 1980 is the Appropriations Subject to Limitation for the first full year of operation of that entity.[4]

10.04 Irregular Alterations to an Appropriations Limit

Other than the annual adjustment, the Appropriations Limit of a local government entity must be altered for any transfer of financial responsibility. The Appropriations Limit may also be altered, for a limited period of time, in the event of a declared emergency or if voters approve an override temporarily increasing the Appropriations Limit.

Transfer of Financial Responsibility[5]

In addition to the annual inflation and population adjustments, the Appropriations Limit must be adjusted in the event that the financial responsibility for providing services is transferred in whole or in part from:

- One entity of government to another.
- One entity of government to a private entity.
- Proceeds of taxes to licenses or fees.

The drafters of Proposition 4 wanted to ensure that public agencies did not evade the Appropriations Limit by shifting programs to other governments or from tax support to user fees. Article XIIIB requires that a public agency's Appropriations Limit be adjusted whenever there is a transfer of financial responsibility:

1. **Between two or more government agencies** (such as through an annexation or incorporation). Whenever financial responsibility for all or some part of a service is transferred between government agencies, the agencies must increase or decrease their limits "by such reasonable amount as the said entities shall mutually agree…."[6] The amounts adjusted should be the same for the two agencies.

Tip: When annexing territory, remember to also negotiate an amount for adjustment of the Appropriations Limits of the affected entities.

2. **From the public sector to the private sector.** A public agency's Appropriations Limit is to be reduced if the financial responsibility for all or part of services transferred to a private entity. For example, if a city that had been funding refuse collection services all or in part from tax revenues instead issued a franchise contract to a private company for providing the service, the Appropriations Limit would be reduced by the amount of tax/subvention saved commencing in the year of the transfer. However, if the service had been funded entirely from user fees, which are not Appropriations Subject to Limit, then the calculations are unaffected and there is no requirement to alter the Appropriations Limit.

3. **From other funding to user fees.** A public agency's Appropriations Limit must be decreased whenever "the financial responsibility of providing services is transferred in whole or in part from other revenues of an entity of government to proceeds from regulatory licenses, user charges, or user fees…."[7] However, the adjustment need only be made "when the dollar amount allocated from other revenues … to the provision of such services is decreased."[8] That is, if the service funding is maintained (e.g., with a "maintenance of effort", etc.) with other revenues, then the Appropriations Limit does not have to be reduced. Consistent with the intent and other provisions of Article XIIIB, "other revenues" referred to in this section means proceeds of taxes and/or state subventions.

Emergency[9]

Locally declared emergency. Article XIIIB allows an entity to exceed its Appropriations Limit by declaring an emergency. In such a case, the Appropriations Limit in the following three years must be sufficiently reduced so as to recover, in aggregate, the excess spending.

The Constitution provides no guidance regarding any criteria which must be met in determining the existence of an emergency of this type. However, the Attorney General has opined that "an emergency" must reflect an extraordinary occurrence or combination of circumstances that was unforeseen and unexpected at the time a governmental entity adopted its budget…and which requires immediate and sudden action of a drastic but temporary nature.[10]

Emergency declared by Governor. Article XIIIB provides different rules for an emergency declared by the Governor. In the event that an emergency is declared by the Governor, the local agency may, by a two-thirds vote of the governing board, appropriate funds into an emergency fund with such appropriations not being subject to limitation.

For this criteria to be met, the emergency, as declared by the Governor, must reflect conditions of disaster or extreme peril to people or property. In an emergency declared by the Governor, there is no requirement to reduce future year Appropriations Limits to recover the amount spent.

Voter Override[11]

The appropriations limit imposed on any new or existing entity of government by this Article may be established or changed by the electors of such entity, subject to and in conformity with constitutional and statutory voting requirements. The duration of any such change shall be as determined by said electors, but shall in no event exceed four years from the most recent vote of said electors creating or continuing such change.

– CAL. CONST. ART XIIIB SEC 4

The voters of a jurisdiction may, by majority approval, increase the Appropriations Limit of a local government. The override may not exceed four years. (See "Exceeding the Limit" below)

Tip: Remember to include language approving an increase in the Appropriations Limit in the enacting ordinance of any tax measure.

10.05 Modifying a Limit – Prior Year Effects

Nothing in the law prohibits a government entity from revising its Appropriations Limit; for example, to correct a computational error or to employ a different valid interpretation of Appropriations Subject to Limit.[12] However, any such modifications must be applied consistently to both the Limit and the Appropriations Subject to Limit from the base year (1986-87) onward. Any such modification should:

- modify the base year Appropriations Limit accordingly and recalculate the subsequent annual Appropriations Limits up through the current year,
- modify the Appropriations Subject to Limit for the base year and each subsequent year, and
- compare the Appropriations Limit and Appropriations Subject to Limit in each year.

Any modification opens a 60-day public challenge period for the recalculated years.

10.06 Appropriations Subject to Limitation

"Appropriations subject to limitation" of an entity of local government means any authorization to expend during a fiscal year the proceeds of taxes *levied by or for that entity and the proceeds of* state subventions *to that entity (other than subventions made pursuant to Section 6)* exclusive of refunds of taxes.*

– CAL. CONST. ART XIIIB SEC 8(B)
**state mandate reimbursement*

The Appropriations Subject to Limitation of an entity of local government are those specified appropriated revenue sources to which the Article XIIIB limit applies. The particular categories and definitions of revenues included in an entity's Appropriations Subject to Limitation should be consistent across all years and the Base Year.

Step by Step:
Determining Appropriations Subject to Limit

1. Assign each revenue account (other than interest earnings) into either proceeds of taxes or non-proceeds. (Worksheet 1)
2. Determine whether any user fees exceed the cost of services. (Worksheet 2. Enter results on Worksheet 1)
3. Determine all allowable exclusions, including debt service, qualified capital outlay, court orders and federal mandates. (Worksheet 3)
4. Pro-rate interest earnings.
   a. Deduct the exclusions identified in step 3 from the total proceeds of taxes computed in steps 1 and 2.
   b. Divide the amount determined in step 4 by the total non-interest revenue on Worksheet 1. Multiply this by the total estimated interest earnings to compute the amount of interest earned from the investment of proceeds of taxes. (Worksheet 4) An alternate method of computing interest earned from the investment of proceeds of taxes may be used with adequate justification and documentation.

3. Allocate the interest earnings between proceeds of taxes and non-proceeds on Worksheet 1 and total the columns. Transfer the total proceeds of taxes from Worksheet 1 and the exclusions from Worksheet 3 to Worksheet 8.

Proceeds of Taxes

Proceeds of taxes include:

- All taxes levied by or for a public agency.
- Any revenue from regulatory licenses, user charges, and user fees to the extent that the proceeds exceed the cost of providing the regulation, product, or service.[13]
- State subventions for general purposes.
- Any interest earned from the investment of the proceeds of taxes.

State Subventions

"State subventions" shall include only money received by a local agency from the state, the use of which is unrestricted by the statute providing the subvention.

– GOV CODE SEC 7903

For the purposes of Article XIIIB, state subventions to a local government is money received from the state which is unrestricted as to use. Discretionary funding to local governments from the state has dwindled dramatically since the passage of Proposition 4 in 1979. Consider:

- Motor Vehicle License Fees (VLF) In Lieu funds that are not designated as to use.
- Homeowners Property Tax Relief.

State moneys provided to local governments with restricted uses are to be included by the State in its Appropriations Limit computations. State subventions provided to local governments without restriction as to use are excluded from the State's Appropriations Limit computations. The same proceeds of taxes may not be included in the Appropriations Limit computations of more than one local jurisdiction or the State.[14]

Motor Vehicle Fuel Tax (Gasoline Tax) revenues allocated to a local government are not a state subvention for the purposes of Article XIIIB because these funds are restricted as to use. The State includes these funds in its calculations.

State mandate reimbursements are specifically excluded from "state subventions."

User Fees

Revenue received from regulatory licenses, user charges, and user fees are not considered as proceeds of taxes unless the proceeds exceed the costs reasonably borne in providing the regulation, service, or product.[15]

Note that the following are NOT considered "regulatory licenses, user fees or charges" for the purpose of this Article XIIIB requirement, nor are they "proceeds of taxes":

- **Rents, concessions, entrance fees, franchise fees** such as facility room rentals; equipment rentals; park, museum and zoo entrance fees, golf greens fees, on and off-street parking, and tolls.
- **Fines, forfeitures, penalties** such as late payment fees, citations, parking fines, code enforcement fees and penalties, interest charges and other charges for violation of the law.
- **Assessments on real property or persons** for special benefit conferred.[16]

In order to make this determination under Article XIIIB, the regulatory license (fees), user charges and fees of the entity should be examined in comparison with the costs of providing the regulation services or products. The analysis may aggregate reasonably related services for this analysis.[17] For example, you may

- group **planning and zoning** fees and charges for comparison with the costs of providing services for which those fees are charged;
- group **building inspection, fire safety inspection, public works inspection, and construction permit** fees and charges for comparison with the costs of providing services for which those fees are charged;
- group **police department** fees and charges for comparison with the costs of providing services for which those fees are charged;
- group **parks and recreation** fees and charges for comparison with the costs of providing services for which those fees are charged.

If a determination is made that the proceeds from an aggregated group of regulatory licenses, user charges, or user fees exceeds costs, then any such excess is to be considered "proceeds of taxes" under Article XIIIB. Such a case requires further analysis to determine compliance of each user fee, regulatory license, and user charge in the aggregated group with Proposition 26 (Cal Const art XIIIC, section 1(e)); or, in the case of property-related fees, Proposition 218 (Cal Const art XIIID, section 6). All taxes require voter approval (Cal Const art XIIIC, section 2).

Exclusions

The following are excluded from the Appropriations Subject to Limitation:

- Certain types of debt service costs.
- Qualified capital outlay.
- The costs of complying with court orders and federal mandates which, without discretion, require an expenditure for additional services or which unavoidably make the providing of existing services more costly.
- Appropriations required to refund taxes.
- Local agency loan funds or indebtedness funds, or investment funds in bank accounts.

Debt Service. Certain types of debt service costs are not subject to the Appropriations Limit. Excludable debt service is limited to "appropriations required to pay the cost of interest and redemptions charges…on indebtedness existing or legally authorized as of January 1, 1978 or on bonded indebtedness thereafter approved…by a vote of the electors…." Under certain conditions, a public entity's contribution to a pension fund may be an "indebtedness" exempt from the Appropriations Limit. Non-voter approved debt used to purchase qualified capital outlays may also be exempted.

Qualified Capital Outlay. Qualified Capital Outlay is an appropriation for a fixed asset (including land and construction) with a useful life of 10 years or more and a value which equals or exceeds one hundred thousand dollars ($100,000). This may include:

- Annual debt service and other financing costs.
- Certificates of participation.
- Lease-purchases.
- Periodic contributions into a capital reserve fund, provided that the funds are used to purchase a qualified capital asset.
- Purchases or rehabilitation which enhances the value of or extends the life of existing property, provided that the equipment, land, facility, and/or construction costs meet the dollar and life expectancy criteria (ten years and $100,000). An example would be the addition of $100,000 sprinkler improvements to enhance an existing park sprinkler system. Another example would be the reconstruction of a deteriorated roadway.
- Lease of a qualified capital asset.

Items which are *not* considered Qualified Capital Outlay include:

- collections of lower-priced assets which, when aggregated total more than $100,000
- regular maintenance of assets.

Count only that portion of the asset(s) which are purchased with tax proceeds. An asset with multiple funding sources should be prorated in order to determine how much is exempt from the Appropriations Limitation.

Tip: Evaluate any contracts your agency has with other agencies or firms to identify any qualified capital outlays paid through the contract. These costs should be excluded from the Appropriations Limit. Consider separate billings for capital outlays.

Caution: Income from the rent or sale of a qualified capital asset may need to be counted as proceeds of taxes. If the asset was originally obtained using funds which would have been above the Appropriations Limit were it not for the qualified capital outlay exclusion, any revenue gained from the asset under these circumstances should be treated as proceeds of taxes.

Court Orders. If a court orders a public entity to spend money without discretion for additional services or if a court order unavoidably makes the provision of existing services more costly, the expenditures are not counted as Appropriations Subject to Limitation. In making a determination, in this area, one should consult legal counsel and consider the meaning of the terms "unavoidably," "without discretion," and "additional service." Some additional cost areas include:

- Costs incurred to comply with court interpretation of an existing state statute or constitutional provision.
- Costs incurred to comply with court mandates imposed on a separate entity of local government to which other entities of government are subject.

Federal Mandates. The costs of compliance with a federal mandate which, like a court order, unavoidably and without discretion requires an additional service or makes an existing service more expensive may also be exempt from the Appropriations Limit. A federal mandate exists whenever failure to comply with the mandate "would result in substantial monetary penalties of loss of funds to public or private persons."[18]

Examples of Federal Mandates

- Americans With Disabilities Act
- Clean Air Act
- Clean Water Act and Water Pollution Control Act
- Comprehensive Environmental Response Compensation and Liability Act
- Drug-Free Workplace Act
- Emergency Planning and Community Right-to-Know Act
- The Fair Labor Standards Act
- Family and Medical Leave Act
- Flood Disaster Protection Act
- Health Insurance Portability and Accountability Act
- Help America Vote Act and Voting Rights Language Assistance Act
- Immigration Reform and Control Act
- Job Training Partnership Act
- Justice for All Act (collection of DNA samples from persons convicted of felonies)
- National Historic Preservation Act
- Occupational Safety and Health Act
- Omnibus Transportation Employee Testing Act
- Public Health Service Act
- Residential Lead-Based Paint Hazard Reduction Act
- Resource Conservation and Recovery Act (hazardous wastes sites)
- Safe Drinking Water Act
- Stewart B. McKinney Homeless Assistance Act
- Surface Transportation and Uniform Relocation Assistance Act
- Telecommunications Act (Wireless Antennas)
- Water Quality Act

Reserve Funds. Whenever tax proceeds are appropriated into a reserve fund (contingency, emergency, unemployment, reserve, retirement, sinking fund, trust, or similar fund) they are to be counted as Appropriations Subject to Limitation in the year of appropriation. However, such funds are not included in the computation when they are withdrawn (or authorized to be withdrawn). Transfers among eligible reserve funds are also not counted as Appropriations Subject to Limitation.

There are two exceptions to this rule. Reserves created to fund 1) the future costs of qualified capital outlay or 2) the damages of an eligible emergency may be created and financed outside of the Appropriations Limit. The specific capital outlay project should be clearly stated prior to funding the reserve, and strict accounting should be used for expenditure of the funds.

Each entity of government may establish such contingency, emergency, unemployment, reserve, retirement, sinking fund, trust, or similar funds as it shall deem reasonable and proper. Contributions to any such fund, to the extent that such contributions are derived from the proceeds of taxes, shall for purposes of this Article constitute appropriations subject to limitation in the year of contribution. Neither withdrawals from any such fund, nor expenditures of (or authorizations to expend) such withdrawals, nor transfers between or among such funds, shall for purposes of this Article constitute appropriations subject to limitation.

– CAL. CONST. ART XIIIB SEC 5

Consistency is Key

There may be some variance among local governments as to interpretation of the specific funds to be included as Appropriations Subject to Limitation. The important thing is that those categories of revenues treated as proceeds in the Base Year are consistently treated as such in subsequent years. Any modification of the treatment of specific revenues must also make that revision in the Base Year (1986-87) and re-adjust each subsequent year's Appropriations Limit.

Step by Step:
Determining Appropriations Subject to Limit

1. Enter the Appropriations Limit for the entity for the prior year on Worksheet 7.
2. Determine the changes in population on Worksheet 5 and select the larger figure for the year. Enter this on Worksheet 7.
3. Determine the change in cost of living under each of the two formulas and select the large figure for the year. Enter this on Worksheet 7.
4. Compute factors and Limits and enter on Worksheet 8.

10.07 Annual Adjustment of the Appropriations Limit

The total annual appropriations subject to limitation of the State and of each local government shall not exceed the appropriations limit *of the entity of government* for the prior year *adjusted for the* change in the cost of living *and the* change in population*, except as otherwise provided in this article.*

– CAL. CONST. ART XIIIB SEC 1

Each year, a local government must adjust its Appropriations Limit for two factors: 1) the change in the cost of living, and 2) the change in population.

Annual Adjustment of Appropriations Limit

$$L = L_{py} * (1+C) * (1+P)$$

L = Appropriations Limit of a local government for a fiscal year

L_{py} = Appropriations Limit of the public entity for the prior fiscal year

C = Change in cost of living as defined in law and chosen by the public entity for that year

P = Change in population as defined in law and chosen by the public entity for that year

However, the law allows a number of choices to the public entity for each of these factors. A local government that is not a school or college district may make a choice each year to define the **change in the cost of living** in either of two ways:

- the change in California per capita personal income, or
- the percentage change in the local assessment roll from the preceding year for the jurisdiction due to the addition of local nonresidential new construction.

Local governments also have multiple options for defining the change in population. A city may choose either

- the percentage change in population within the city, or
- the percentage change in population within the county in which the city is located (i.e., total population in county meaning incorporated and unincorporated combined).

Special districts and counties have other choices (see table).

	Change in Population[19]	Change in the Cost of Living[20]
City	(1) The percentage change in population within the city, or (2) the percentage change in population within the county in which the city is located. (total in county: incorporated and unincorporated combined)	(A) the percentage change in California per capita personal income from the preceding year, or (B) the percentage change in the local assessment roll from the preceding year for the jurisdiction due to the addition of local nonresidential new construction.
Special District	(1) The percentage change in population within the district, or (2) the percentage change in population within the county in which the district is located. (3) For a special district located in two or more counties, the district may use the percentage change in population in the county in which the portion of the district is located which has the highest assessed valuation.	
County	(1) The percentage change in population within the county, or (2) the percentage change in population within the county, combined with the change in population within all counties having borders that are contiguous to that county, or (3) the percentage change in population within the incorporated portion of the county.	

Sources and Calculation Methods

Percentage changes in population for each year - including for a city, special district, county, or county incorporated area - are available from the California Department of Finance Demographics Unit.

The percentage change in California per capita personal income is defined in law as *California personal income*[21] *divided by the civilian population of the state*[22]*…divided by the similarly determined quotient for the next prior year."*[23] The Department of Finance is required to make this calculation and notify each local agency of the figure no later than May 1 of each year.[24]

The percentage change in the local assessment roll from the preceding year for the jurisdiction due to the addition of local nonresidential new construction is properly defined as the dollar change in locally assessed non-residential valuation due to new construction from the prior year assessment roll to the most recent assessment roll divided by the total secured and unsecured assessment roll in the prior year.

"Change in the cost of living" for an entity of local government, other than a school district or a community college district, shall be either (A) the percentage change in California per capita personal income from the preceding year, or (B) the percentage change in the local assessment roll from the preceding year for the jurisdiction due to the addition of local nonresidential new construction. Each entity of local government shall select its change in the cost of living pursuant to this paragraph annually by a recorded vote of the entity's governing body.

– CAL. CONST. ART XIIIB SEC 8(E)(2)

Change in assessment roll due to addition of local nonresidential new construction

$$C_{ar} = \frac{NRAV}{AR_{py}}$$

C_{ar} = Percentage change in the local assessment roll from the preceding year for the jurisdiction due to the addition of local nonresidential new construction.

NRAV = the dollar value of new nonresidential construction in the jurisdiction during the year following the prior-year assessment roll.

AR_{py} = the total secured and unsecured assessment roll in the jurisdiction in the prior year.

Check with your County Assessor for the elements of this calculation.

Annual Adjustment Factors Prior to 1990-91

For the year 1980-81 through 1989-90, the factors were, for each year: I) the lesser of the change in the U.S. Consumer Price Index (CPI) or the change in California Per Capita Income, and 2) the change in population of the entity.

10.08 Exceeding the Limit

All revenues received by an entity of government, other than the State, in a fiscal year and in the fiscal year immediately following it in excess of the amount which may be appropriated by the entity in compliance with this article during that fiscal year and the fiscal year immediately following it shall be returned by a revision of tax rates or fee schedules within the next two subsequent fiscal years.

– CAL. CONST. ART XIIIB SEC 2(B)

If a government entity ends a fiscal year having more Appropriations Subject to Limit than its Appropriation Limit allows, the entity must return the excess either by reducing taxes or fees. Excess revenues in a year may be carried over for one year. That is, if a government entity exceeds its Appropriations Limit in a fiscal year, it can avoid a refund if it is below its Appropriations Limit in the next succeeding year by at least as much. The effect of this one year carry-over provision is that the amount of the combined Appropriations Subject to Limit over a two year period in excess of the combined Appropriations Limits for those two years must be returned.[25]

The government entity must return the excess amount by a revision of tax rates or fee schedules within the next two subsequent fiscal years. Alternatively, the electors of a government entity may increase the appropriations limit of the entity. Such a change in an Appropriations Limit may not exceed four years from the most recent vote of the electors.[26]

Overrides

An Appropriations Limit override does not have to specify how the excess proceeds of taxes will be used by the entity (although it may). The amount of increase requested may be in the form of an absolute dollar amount, a percentage increase, an unspecified amount tied to increased revenue from a specific source, or any combination or amount desired by the government entity.

The override may be held any time within the two years allowed to refund the excess funds. However, is risky to wait too long before submitting an override to the voters. The four-year maximum period commences from the date of passage of the override.

10.09 Adoption Procedures and Annual Review

The Adoption Process

The law stipulates that each year each local government shall:

- By resolution of the governing board at a regularly scheduled meeting or noticed special meeting, establish its Appropriations Limit and make other necessary determinations pursuant to Article XIIIB.
- Fifteen days prior to the meeting establishing the Limit, make available to the public, documentation used in the determination of the Appropriations Limit and other necessary determinations.[27]
- Publish the Appropriations Limit and the Appropriations Subject to Limitation in the annual budget of the government entity.[28]
- Provide the Appropriations Limit and the Appropriations Subject to Limitation to the State Controller's Office on forms included with the filing of the Annual Statement of Financial Transactions.

There is no requirement that a public entity disclose the final amount of proceeds of taxes or Appropriations Subject to Limit. However, some public entities choose to document the actual amount of tax proceeds received and publicly provide notice that the Appropriations Limit has not (or has) been exceeded.

Annual Review and Enforcement

The annual calculation of the appropriations limit under this article for each entity of local government shall be reviewed as part of an annual financial audit.

– CAL. CONST. ART XIIIB SEC 1.5

The annual calculation of the Appropriations Limit must be reviewed as part of an annual financial audit. The League of California Cities interprets this requirement as follows:

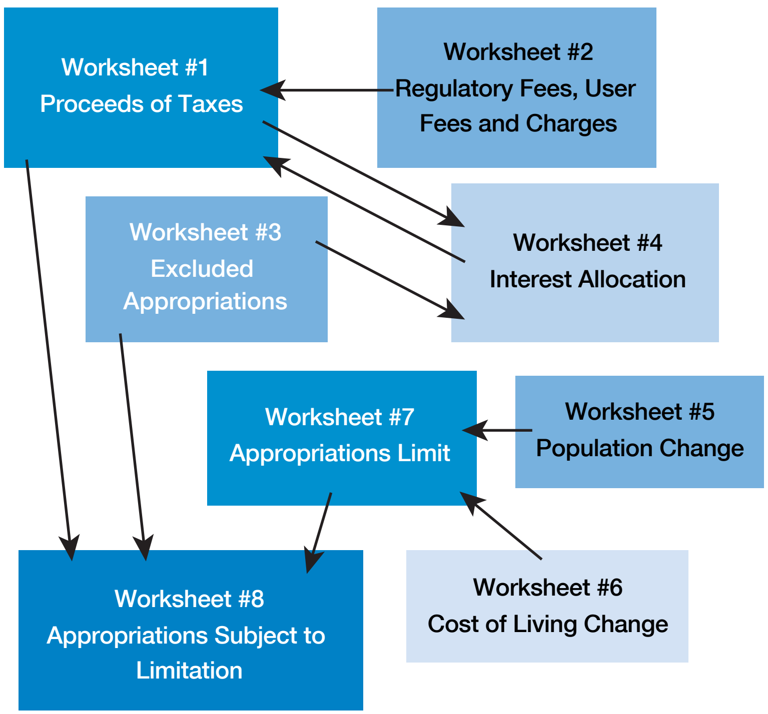
- An annual financial audit of the entity shall include a review of the adjustments made to the Appropriations Limit from the prior year.
- If the government entity alters or modifies its Appropriations Limit, the review will address those changes including any related revision of base year and intervening year calculations.
- The review will evaluate the accuracy of the computations and the adequacy of documentation. Completion of the worksheets in these guidelines or other alternative computations, along with required council motions will provide adequate documentation needed for the review.
- A local government need not conduct an annual audit of its "proceeds of taxes."[29]

The review will include the following procedures:

- Determine that the Appropriations Limit was adopted by the governing board of the entity, and that the population and inflation options were selected by a recorded vote of the governing board.
- Determine that the computations correctly compute the current year Appropriations Limit, taking into account the prior year Appropriations Limit, adjustments for the change in the cost of living and the change in population as defined, and any alterations or modifications.
- Determine from supporting schedules or worksheets that the computations of the components used in the calculation of the Appropriations Limit are correctly calculated.
- Agree the prior year Appropriations Limit used in this computation to the prior year Appropriations Limit adopted by the governing board during the prior fiscal year.
- The determination of whether actual revenues exceeded the Appropriations Limit should take place pursuant to other responsibilities of the financial auditor.
- The review of the Article XIIIB computations must be conducted even if an entity does not normally conduct a full financial audit.
- The auditor should issue an "agreed-upon procedures" report to the governing board of the entity.

Article XIIIB was intended by the drafters and the Legislature to be locally enforced by concerned citizens. There is no formal enforcement agency. The law limits challenges to the Appropriations Limitation calculation to a 45-day period, and the complainant must seek remedies in civil court.[30]

Gann Limit Calculations Worksheet Information Flow



Endnotes

1 Cal. Const. art VIIIB Sec 8(d)

2 *City of Sacramento v the State of California* (1990) 50 C3d 51, Rev and Tax Code Sec 2206.

3 Cal. Const. art VIIIB Sec 8(h)

4 Gov. Code Sec 7902.7, Gov. Code Sec 56811 for special districts, Gov. Code Sec 56812 for cities.

5 Cal. Const. art VIIIB Sec 3

6 Cal. Const. art VIIIB Sec 3(a)

7 Gov. Code Sec 7913

8 ibid

9 Cal. Const. art VIIIB Sec 3(c)

10 65 Ops. Atty. Gen. 151,3-2-82.

11 Cal. Const. art XIIIB Sec 4

12 *Santa Barbara County Taxpayers Association v. Board of Supervisors of Santa Barbara County* (1989) 209 Cal.App.3d 940.

13 If a determination is made that the proceeds from an aggregated group (See Gov Code Sec 7905) of regulatory licenses, user charges, or user fees exceeds costs reasonably borne in providing the regulation, service, or product, then any such excess is "proceeds of taxes" under Article XIIIB. A further analysis for compliance under Cal Const art XIIIC, § 1(e), or, in the case of property related fees, Cal Const art XIIID.

14 Gov. Code Sec 7904

15 If a determination is made that the proceeds from an aggregated group (See Gov Code Sec 7905) of regulatory licenses, user charges, or user fees exceeds costs reasonably borne in providing the regulation, service, or product, then any such excess is "proceeds of taxes" under Article XIIIB. A further analysis for compliance under Cal Const art XIIIC, § 1(e), or, in the case of property related fees, Cal Const art XIIID.

16 *County of Placer v. Corin (1980) 113 CA3d 449*

17 Gov. Code Sec 7905

18 *City of Sacramento v the State of California* (1990) 50 C3d 51, Rev and Tax Code Sec 2206.

21 "…as published by the United States Department of Commerce in the Survey of Current Business for the fourth quarter of a calendar year…" Gov. Code Sec 7901

22 "…on January 1 of the next calendar year, as estimated by the Department of Finance…" Gov. Code Sec 7901

23 Gov. Code Sec 7901

24 Gov. Code Sec 7909

25 Cal. Const. art XIIIB Sec 2(b)

26 Cal. Const. art XIIIB Sec 4

27 Gov. Code Sec 7910

28 Gov. Code Sec 37200

29 *Barratt American Inc. v. City of Rancho Cucamonga* (2005) 37 Cal.4th 685) that

30 Gov. Code Sec 7910

Worksheet #1
Proceeds of Taxes

City ______________________ FY __________

Revenue Source	a Proceeds of Taxes	b Non-Proceeds of Taxes	c Total
Taxes			
Property Tax			-
Sales and Use Tax			-
Transactions and Use Tax			-
Business License Tax			-
Utility User Tax			-
Transient Occupancy Tax			-
Documentary or Real Property Transfer Taxes			-
Parcel Taxes			-
Other Taxes			-
Fees from Worksheet #2 -->	-	-	-
Benefit Assessments			-
Franchises (Cable/Video, Solid Waste, Electric/Gas, etc.)			-
Fines, Forfeitures and Penalties			-
Rents, Royalties and Concessions			-
Gifts			-
Licenses and Permits			
Include regulatory licenses and permits as regulatory fees in ***Worksheet 2.***			
Include public property, facility or equipment rental licenses/permits in "rents" above.			
Include business license taxes in "taxes" above.			
From State			
Motor Vehicle License Fee			-
Homeowners Property Tax Relief Reimb.			-
Williamson Act			-
Motor Vehicle Fuel (gasoline) Tax			-
Proposition 42 Gasoline Sales Tax			-
Citizens Option for Public Safety (COPS)			-
Proposition 172 Public Safety Sales Tax			-
State Mandate Reimbursements			-
Other discretionary state grants and aid			-
Other non-discretionary state grants and aid			-
Repealed Subventions			
Criminal Justice Fee (Booking Fee) Relief			-
Discretionary Local Assistance (1999-00, 2000-01)			-
Police Technology Grants (CLEEP)			-
Liquor License Fees			-
Highway Carriers Uniform Business Tax			-
Financial Aid to Local Agencies			-
Business Inventory Exemption Reimbursement			-
Trailer Coach / Mobile Home VLF			-
1978-79 Bailout Funds			-
Other Governments			
Federal General Revenue Sharing			-
Federal CDBG			-
Housing (HUD)			-
Disaster Reimbursement			-
Other			-
Other Miscellaneous			
Sale of property (See "Qualified Capital Outlays")			-
Interfund transfers			-
	To Worksheet 4		
1 **Sub-Total non-interest revenues**	-	-	-
2 **Interest Earnings** from Worksheet #4 -->		-	-
3 **Reserve Withdrawls**			-
	To Worksheet 8		
4 **Total**	-	-	-
			To Worksheet
		Total revenue plus reserve withdrawls (1c + 3c)	-

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Worksheet #2

Regulatory Fees, User Fees & Charges

City | - | FY | -

		a	i	ii	b=i+ii	c=b-a	d
	Program Area	Fee Revenue	Direct Costs	Allocated Overhead	Total Costs	Costs minus Revenues	Revs > Costs? C=negative
1	General Gov't - Management/Support				-	-	-
2	Police - Law Enforement				-	-	-
3	Transportation - Public Works				-	-	-
4	Planning and Development				-	-	-
5	Building, Construction and Fire Safety				-	-	-
6	Parks and Recreation, museums, etc.				-	-	-
7	Water				-	-	-
8	Sewer				-	-	-
9	Solid Waste				-	-	-
10	Other				-	-	-
11					-	-	-
12					-	-	-
13					-	-	-
14					-	-	-
15					-	-	-

To Worksheet 1

16 Proceeds of Taxes => -

= sum of column d

To Worksheet 1

Non-Proceeds of taxes => -

=a16-d16

Do not include rents, entrance fees, royalties, concessions, franchises, fines, forfeitures, penalties, or assessments on real property

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Exerpted from "The California Municipal Revenue Sources Handbook, 2014 Edition" by Michael Coleman ©2014

Worksheet #3
Excluded Appropriations

City - FY -

	Amount
Court Orders	
sub-total	-
Federal Mandates	
sub-total	-
Qualified Capital Outlay	
sub-total	-
Qualified Debt Service	
sub-total	-
	To Worksheets 4
Total Exclusions	-

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Worksheet #4
Interest Allocation

City - FY -

	Amount	Source
a) Non-interest Tax Proceeds		from Worksheet #1
b) Minus Exclusions		from Worksheet #3
c) Net invested proceeds from taxes	-	a-b
d) Total revenue plus reserve withdrawls		from Worksheet #1
e) Proceeds of taxes as a percentage of revenues		c / d
	To Worksheet 1	
f) Interest earnings - Total		
	To Worksheet 1	
g) Amount of interest earned from "proceeds of taxes"		e * f

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Worksheet #5
Population Changes

City:

For Fiscal Year	Jan 1	City Population	Countywide Population	Jan 1	City Population	Countywide Population	City % Change	County % Change
1986-87	1985			1986				
1987-88	1986	-	-	1987				
1988-89	1987	-	-	1988				
1989-90	1988	-	-	1989				
1990-91	1989	-	-	1990				
1991-92	1990	-	-	1991				
1992-93	1991	-	-	1992				
1993-94	1992	-	-	1993				
1994-95	1993	-	-	1994				
1995-96	1994	-	-	1995				
1996-97	1995	-	-	1996				
1997-98	1996	-	-	1997				
1998-99	1997	-	-	1998				
1999-00	1998	-	-	1999				
2000-01	1999	-	-	2000				
2001-02	2000	-	-	2001				
2002-03	2001	-	-	2002				
2003-04	2002	-	-	2003				
2004-05	2003	-	-	2004				
2005-06	2004	-	-	2005				
2006-07	2005	-	-	2006				
2007-08	2006	-	-	2007				
2008-09	2007	-	-	2008				
2009-10	2008	-	-	2009				
2010-11	2009	-	-	2010				
2011-12	2010	-	-	2011				
2012-13	2011	-	-	2012				
2013-14	2012	-	-	2013				
2014-15	2013	-	-	2014				
2015-16	2014	-	-	2015				
2016-17	2015	-	-	2016				
2017-18	2016	-	-	2017				
2018-19	2017	-	-	2018				
2019-20	2018	-	-	2019				
2020-21	2019	-	-	2020				

Select highest population factor for the year (column e or f) to Worksheet 7

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Worksheet #6
Cost of Living Adjustment Factors

City

Factors for Fiscal Year	a Percentage Change in Per Capita Personal Income *Source: Calif Dept of Finance*	published	b NRAV Dollar Value of New Nonresidential Construction in the jurisdiction *Source: County Assessor*	from ...	c AR_{py} Total secured and unsecured assessment roll in the jurisdiction *Source: County Assessor*	for ...	d = b ÷ c Change in assessment roll due to addition of local nonresidential new construction
1987-88	3.47%	May 1, 1987		1986 to 1987		1986	
1988-89	4.66%	May 1, 1988		1987 to 1988		1987	
1989-90	5.19%	May 1, 1989		1988 to 1989		1988	
1990-91	4.21%	May 1, 1990		1989 to 1990		1989	
1991-92	4.14%	May 1, 1991		1990 to 1991		1990	
1992-93	-0.64%	May 1, 1992		1991 to 1992		1991	
1993-94	2.72%	May 1, 1993		1992 to 1993		1992	
1994-95	0.71%	May 1, 1994		1993 to 1994		1993	
1995-96	4.72%	May 1, 1995		1994 to 1995		1994	
1996-97	4.67%	May 1, 1996		1995 to 1996		1995	
1997-98	4.67%	May 1, 1997		1996 to 1997		1996	
1998-99	4.15%	May 1, 1998		1997 to 1998		1997	
1999-00	4.53%	May 1, 1999		1998 to 1999		1998	
2000-01	4.91%	May 1, 2000		1999 to 2000		1999	
2001-02	7.82%	May 1, 2001		2000 to 2001		2000	
2002-03	-1.27%	May 1, 2002		2001 to 2002		2001	
2003-04	2.31%	May 1, 2003		2002 to 2003		2002	
2004-05	3.28%	May 1, 2004		2003 to 2004		2003	
2005-06	5.26%	May 1, 2005		2004 to 2005		2004	
2006-07	3.96%	May 1, 2006		2005 to 2006		2005	
2007-08	4.42%	May 1, 2007		2006 to 2007		2006	
2008-09	4.29%	May 1, 2008		2007 to 2008		2007	
2009-10	0.62%	May 1, 2009		2008 to 2009		2008	
2010-11	-2.54%	May 1, 2010		2009 to 2010		2009	
2011-12	2.51%	May 1, 2011		2010 to 2011		2010	
2012-13	3.77%	May 1, 2012		2011 to 2012		2011	
2013-14	5.12%	May 1, 2013		2012 to 2013		2012	
2014-15		May 1, 2014		2013 to 2014		2013	
2015-16		May 1, 2015		2014 to 2015		2014	
2016-17		May 1, 2016		2015 to 2016		2015	
2017-18		May 1, 2017		2016 to 2017		2016	
2018-19		May 1, 2018		2017 to 2018		2017	
2019-20		May 1, 2019		2018 to 2019		2018	
2020-21		May 1, 2020		2019 to 2020		2019	

Worksheet #7
Appropriations Limit

City: - FY: -

	percent	Amount	Source
a) Prior Year Appropriations Limit			Prior year schedules
b) Adjustment Factors	percent	ratio	
1) Population Change		1.000	Select from Worksheet 5
Population in city or county?			"city" or "county"
2) Cost of Living		1.000	Select from Worksheet 6
State CPI or % New non-residential?			"CPI" or "%new non-resid AV"
3) Combined adjustment factor		1.000	b1 * b2
c) Adjusted Limit		-	a * b3
d) Alterations			
Transfer of Financial Responsibility			
Transfer to Fees			
Emergency			
Voter Override			
Total Alterations		-	sum of d
e) Appropriations Limit - Current Year		-	c + d

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Worksheet #8
Appropriations Subject to Limitation

City: - FY: -

	Amount	Source
a) Proceeds of Taxes	-	Worksheet #1
b) Exclusions		Worksheet #3
c) Appropriations Subject to Limitation	-	a-b
d) Appropriations Limit (current year)		Worksheet #7
e) Under (Over) Limit	-	d-c

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