

FREQUENTLY ASKED QUESTIONS AND ANSWERS RE PROP 39

What elections does Prop 39 cover?

Prop 39 remains an ALTERNATIVE to the 2/3 vote provisions under the Constitution, so the district board has the power to decide whether to invoke it. It technically became effective on November 8, assuming that State certifications of the election confirm the results. The first Bond election that could be scheduled following November 8 will be no less than 88 days later, or during the month of February 2001. But since we don't typically conduct local elections in February, the March 6, 2001 election date is the most likely first eligible Prop 39 election cycle.

Can we conduct a Prop 39 election on any Tuesday?

No. THIS IS A MAJOR DIFFERENCE BETWEEN A PROP 39 AND A PROP 46 ELECTION. The new provisions of law restrict Prop 39 bond elections to those dates on which they can be consolidated with a State or Federal primary or general election or a "regularly scheduled election" for a local agency.

Will a Board of Trustees election be sufficient for consolidation under Prop 39?

Yes. If either your own district or an overlapping school or college district should be scheduled to have Trustee elections during 2001, your district may consolidate its Prop 39 bond election with that event.

Can we consolidate with a City election, even though the County usually runs our elections?

Yes. So long as your district boundaries are within the boundaries of the local agency in question, your Prop 39 bond election may be consolidated. Some school districts have identical boundaries with their "home" city; this is, however, not required by Prop 39.

NOTE: According to the sponsors of A.B. 1908, the implementing legislation for Prop 39, there is still an open question as to consolidation for some school districts. For example, where a school district – whether union or unified – encompasses land located in more than one local jurisdiction, such as two cities, A.B. 1908 FAILS TO SAY what "regularly scheduled local election" means for that district. Do both cities have to have City Council or other elections simultaneously, in order to qualify? Or is it sufficient that the city encompassing *most* of the land or voters within the district be conducting such an election? The proponents advise they meant for the latter standard to be the case, and they did not mean to disenfranchise a district, where only a portion of the district was scheduled to conduct an election. However, this gap was not cleaned up in other legislative amendments in 2001. This means that districts with this "irregular overlap" problem will still need to be careful in identifying opportunities for Prop 39 elections.

How do we make the election proceed under Prop 39, instead of the old 2/3 vote provisions?

The Initiative is silent on this, but does require that your accompanying Resolution promise to do certain things, such as approve a master project list and appoint an oversight committee. There is no known magic language, but Ballot forms distributed to the public will announce to voters what vote level is required.

When do we have to approve that project list under Prop 39?

The only requirement in law is that the “specific list of school facilities improvements projects” be approved by board action prior to the bond election. However, we recommend that the list be approved as early as possible, so that the public has adequate access to it, well before the election. Not only is this fair, but it should minimize opposition complaints.

Did Prop 39 expand the types of project for which we could get general obligation bond financing?

Yes. The old law restricted districts in spending general obligation bond proceeds, by limiting projects to “real property and improvements.” Prop 39 would permit districts also to finance “furnishings and equipment” for “school facilities” with proceeds of such bonds. Given the phrasing of the Initiative and the accompanying legislation, however, districts should NOT expect to be able to finance the acquisition of school busses or other rolling stock.

What does Prop 39 require as to this project list?

Before the bond election, the district Board must also certify that it has taken into account technology needs, class size reduction and safety considerations in compiling and approving the project list. This can be done in the text of a Resolution. The statutory standard for the project list is that it be “specific,” without further guidance. We recommend that the Board prepare a detailed project list, identified by type of improvement, acquisition or installation, and by campus, if the district operates more than one site. To our knowledge, there is no statutory requirement for detail regarding (a) the likely cost of the particular project component; (b) the date or dates by which the project is expected to be complete; or (c) the priority according to which the Board intends to acquire, construct or install the particular project component.

In this sense, the Prop 39 project list becomes a sort of supplement to both the Ballot Measure and the district’s Capital Plan. However, it is PERMISSIBLE for the Board to set forth a priority on the project list and to consider itself bound by the same.

Because circumstances change over time, we recommend that districts approve project lists that are more expansive than the amount of bond proceeds could actually finance, if the election were successful. In this way, projects that become no longer necessary, that are financed

from other sources (such as State bond proceeds) or that are delayed due to demographic or other changes, may be dropped from the list.

How does the Citizens' Oversight Committee come into being? Does it control the expenditure of bond proceeds?

After a successful election, the Board has 60 days in which to set up a citizens' oversight committee (the "Committee"), which is responsible for insuring that the Board spends the money from the bond issue only on the approved projects. The Committee will make at least annual reports to the taxpayers. No district officials or employees may sit on this Committee. No district funds may be expended to support the activities of the Committee.

Many districts will have appointed some sort of citizens' advisory committee prior to the bond election; if the constitution of such a committee meets Prop 39's requirements for a Committee, it may be approved by the Board following a successful Prop 39 election as the Citizens' Oversight Committee. However, its existence before the election does not forgive the obligation of the Board to make the official appointment.

The Committee does NOT control the expenditure of bond proceeds; its primary responsibility is to report to taxpayers as to how well the district is doing, building and constructing the approved project components. To this end, the Committee is given the right under A.B. 1908 to review progress payments, visit construction sites, and conduct an audit of the expenditure of bond proceeds. It must make a report at least annually, which is to be made available to taxpayers. We envision that this report would be formally presented to the Board during an open meeting session.

The Committee is a "Brown Act" committee and must conduct its sessions in public. The district will make space and support staff available to the Committee, but will not spend bond proceeds to support Committee activities.

May we allocate our Business Manager's time to supervision of construction under a Prop 39 bond?

Prop 39 seems to be quite specific that **no** bond proceeds may be expended for administrators' or teachers' salaries. However, a professional project manager may be retained from bond proceeds to perform this function. Similarly, other consultants, such as architects and environmental testing companies, may be retained in connection with portions of the scheduled and approved projects.

What are the actual dollar limits on the size of bond issues approved under Prop 39?

The "old" law permitted a school district to issue general obligation bonds in an amount up to 1.5% of the assessed valuation ("AV") within the district at the date of issue; for a unified school district or community college district, the limit was 2.5% of AV. This is still the law.

However, Prop 39 has added a test, under which each bond election is also limited to a certain tax rate per \$100,000 of AV within the district. These rates are:

School Districts:	\$30.00 per \$100,000 of AV
Unified School Districts:	\$60.00 per \$100,000 of AV
Community College Districts:	\$25.00 per \$100,000 of AV

You will need to work with a financial consultant or underwriter in order to calculate what these additional limits would mean for your district.

The limitations listed above are imposed under A.B. 1908 for “each election.” If we have two or more Bond Measures presented in a single election cycle, will those count as separate elections?

A single election date will constitute a single election for purposes of Prop 39, in our view.

We want to consider using Prop 39 for an election within a School Improvement District under the Education Code. Are such districts covered by the 55% vote?

Under clean-up legislation, elections conducted under these additional provisions of the Education Code are now covered. Incidentally, parcel tax elections are not covered by Prop 39, because (a) they were not specifically addressed and (b) they result in levies that go to the general fund of a school or college district, and are covered by Prop 218.

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