



District 9! Risk and Compliance in Special Districts

CSMFO – Annual Conference

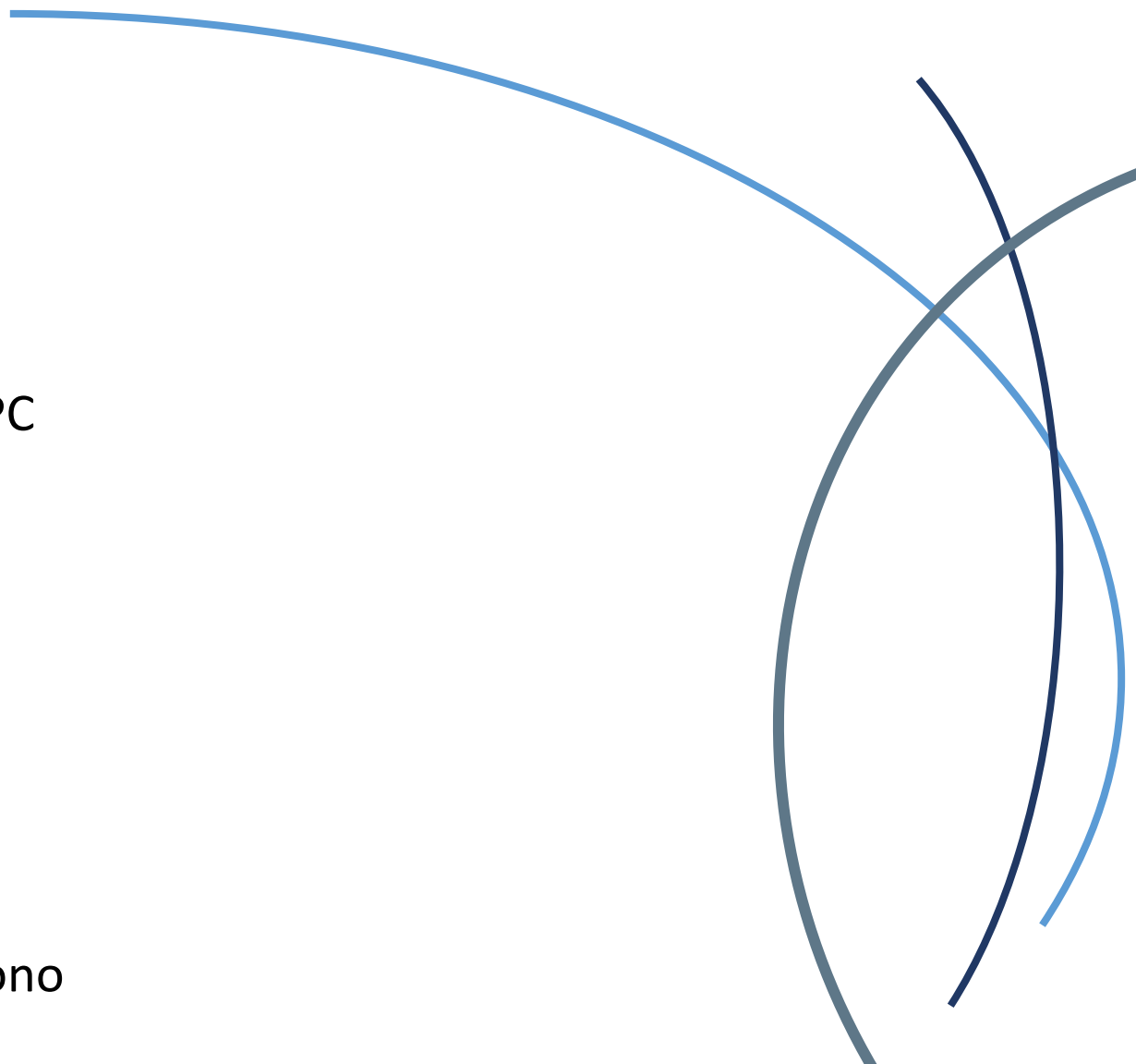
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Parcel Taxes

- 2016's AB 1891 (Dababneh, D-Van Nuys)
 - Gov. Code § 50079 requires school parcel taxes that exempt low-income seniors to allow seniors to qualify for exemption once and to maintain the exemption thereafter
 - Effective 1/1/17

Parcel Taxes

- 2016's AB 2476 (Daly, D-Anaheim)
 - Gov. Code, § 54930 requires mailed notice of new parcel tax before election
 - Amount or rate
 - Method, frequency, and duration of collection
 - Point of contact for additional information
 - Effective 1/1/17

Parcel Taxes

- *Borikas v. Alameda USD* (2013) held that statutes required parcel taxes to be uniform and disallowed common structure of \$x / dwelling unit and \$y / sq. ft. of non-residential
- *Dondlinger v. LA County Regional Park & Open Space Dist.* (2d DCA No. B284932) challenges November 2016's Measure A on this theory, appeal from trial court judgment for County entered 08/15/2017; Opening Brief on Appeal due 2/26/18

Tax Ballot Measures

- AB 809 (Oberholte, R-Hesperia)
 - Effective 1/1/16, Elections Code section 13119 requires ballot labels to disclose amount to be raised annually by “initiative measure” that “imposes a tax or raises the rate of a tax”
 - Intended to apply to school bonds, but those are not proposed by initiative, but by Board resolution

Tax Ballot Measures

- AB 195 (Oberholte, R-Hesperia)
 - Effective 1/1/18, amends Elections Code section 13119 to apply to all ballot measures that propose taxes.
 - Label must be: “Shall the measure (stating the nature thereof) be adopted?”
 - Must state “the amount of money to be raised annually and the rate and duration of the tax”
 - Label “shall be a true and impartial synopsis of the purpose of the proposed measure, and shall be in language that is neither argumentative nor likely to create prejudice for or against the measure.”
 - Purports to apply to charter cities, but many charters adopt the Election Code anyway.

Tax Ballot Measures

- AB 1194 (Dababneh, D-San Fernando Valley)
 - Amends Elections Code section 9401 effective 1/1/18
 - Applies to bond proposals, which are more common for schools than other local governments
 - Requires ballot book to include an estimate of the average annual tax rate required to fund the proposed debt and its term

Prop. 218 Legislation

- 2016's AB 2801 (Gallagher, R-Sutter Co.)
 - Amends Prop. 218 Omnibus Implementation Act GC § 53755 to require protests to be treated as public records and retained for two years
 - Earlier proposal to limit validation died in Assembly Committee
 - Effective 1/1/17

Assessments

Silicon Valley Taxpayer's Ass'n v. Sta. Clara Co. Open Space Auth. (2008)
44 Cal.4th 431

- Independent judicial review of assessments
- Tighter definition of special benefit
- Open space and other services that benefit public broadly harder to justify
- Proportionality requirement unclear

BID Assessments

Dahms v. Downtown Pomona PBID

(2009) 174 CA4th 708 allows:

- exemption of residential pty from assessment for security, streetscape maintenance & marketing
- discounted assessments for non-profits
- use of front-street frontage for apportionment, along with lot & building size
- Very generous to agency; later cases less so

Utility Undergrounding Assessments

Tiburon v. Bonander (2009) 180 CA4th 1057

- No general benefit for utility undergrounding
- Court can look outside agency's own record
- Invalidated allocation of assessment and establishment of zones of benefit

Park Assessments

Beutz v. Riverside Co. (2010) 184 CA4th 1516

- Park M&O can be 100% assessment financed b/c capital provided w/ other \$
- Agency must always prove special benefit and proportional allocation even if challenger doesn't raise these points
- Questions use of cost to allocate benefit

Fire Suppression Assessments

Concerned Citizens v. West Point FPD, Cal. S. Ct. Case No. S195152

- Sufficiency of engineer's report to show special benefit or proportionality
- Use of cost to allocate benefit
- Dismissed as moot and DCA opinion not republished
- Similar case pending in Fresno DCA

Maintenance Assessments

Golden Hill Neighborhood Ass'n v. City of San Diego (2011) 199 CA4th 416

- Invalidated maintenance district under 1972 Lighting & Landscaping Act for inadequate engineer's report (no basis for allocation of votes to City property)
- Helpfully limited DCA's *West Point* decision and provides guidance for engineers' reports
- New appeal from La Jolla BID assessment likely in 2018

PBIDs, BIDs and TMDs

- Property-based business improvement districts have engendered litigation
- AB 2618 (Pérez, D-LA) codifies *Dahms* as to PBIDs and clarifies the statute effective 1/1/15
- TMD assessments have generated litigation under Prop. 26.
 - Ontario prevailed on standing grounds;
 - San Diego mooted by amendment to limit assessment to large hotels; fee award appealed; duplicative suits dismissed by trial court and now also on appeal

Assessing Other Governments

- 218 says you cannot exempt other governments and it was unclear whether that means you can assess them
- *Manteca USD v. Reclamation District 17*, (2017) 10 CA5th 730
 - Art. 13D, § 4(a) ban on exempting government property trumps Water Code provision forbidding RD to assess schools and roads
 - Review denied 07/26/2017

Advice re Assessments

- Use a strong, current engineer's report
- Get legal review of reports at least until assessment law stabilizes
- Watch for current developments

Questions?



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