

Proposition 39 “Smaller Classes, Safer Schools and Financial Accountability Act”

Proposition 39, passed by 53.3% of voters in 2000, focused on changing the accountability requirements and reducing the vote threshold needed to pass general obligation bonds by school districts, community college districts and county education offices.

This brief analysis will examine the provisions of Proposition 39 as well as two Assembly Bills (AB 1908 and AB 2659) that modify its provisions.

Prop 39 Vocabulary

Table 1 describes some of the vocabulary necessary to understand the discussion regarding bonds.

TABLE 1	
Vocabulary of Proposition 39	
General Obligation Bond	A bond that, once passed, will be paid automatically with property tax revenues. Once a general obligation bond is passed, property taxes will increase automatically to take into account payments on the bond’s interest and principal.
<i>Assessed Value</i>	The value of the property as listed for property tax purposes; this is often different from the market value of the property. Under Proposition 13, the assessed value of the property may only increase by 2% per year, therefore it is not responsive to fluctuations in the property’s market value. When sold, the property is reassessed and becomes representative of the current market value, which will then increase by 2% per year.
<i>Market Value</i>	The approximate price the property would sell at if sold on an open market.

Background to Proposition 39

Proposition 13, passed in 1978, set the general level of voter approval needed to pass bond measures at a two-thirds majority. Burdened with this high threshold, many of the school bonds proposed by local school districts failed. From 1986 to June 2000, just over half of the bonds proposed received enough votes to be implemented under the two-thirds threshold; while another third of the bonds received 55% of the vote but failed to garner the 66% needed for approval. Proposed for the November 7, 2000 general election, Proposition 39 was aimed at this other one-third of school bonds that were not approved. In addition to reducing the threshold, Proposition 39 required greater oversight and a provision for charter schools.

Proposition 39 modified the two-thirds voter threshold on bonds to a 55% threshold on measures to fund school district projects. The passage of Proposition 39 in November 2000, with 53.5% of the vote also triggered the provisions laid out in Assembly Bills 1908 and 2659 which had been passed earlier in 2000. When combined with the objectives of Proposition 39, AB 1908 and AB 2659 provide greater oversight of the bond measures and impose ceilings on the property tax increases used to fund the bonds.

Main Provisions

While Proposition 39 decreased the approval threshold from 67% to 55%, it only applied to some bonds, not all bonds. A school board may choose to offer a bond under the Proposition 39 guidelines, or it may offer a bond with the original requirements and a two-thirds voter threshold. It is important to note the additional requirements that must be met for a bond to be considered with the 55% approval threshold. The usage of the bond funding is strictly limited. Bonds may only provide funding for construction, reconstruction, rehabilitation or replacement of school facilities, including furnishing the facilities. Bond money may not provide funding for operational costs, including administration or teacher salaries. In order to ensure that the bond will be meeting these specific requirements, the bond listing contains a specific list of all the projects to be funded by the bond. The type of list and measures of the feasibility or cost estimates of each project are not, however, required. In addition, not all construction, reconstruction, rehabilitation or replacement projects will be considered. The projects to be funded by the bond must be placed upon the list based upon the school board’s determination that the projects are necessary to address school safety, class size reduction or information technology needs.

In addition to specifying the projects to be funded by the bonds, Proposition 39 set some rules regarding accountability and bond repayment. All Proposition 39 bonds have requirements for annual independent financial and performance audits. Proposition 39 allows for increases in property taxes over the 1% limit, set in Proposition 13, to repay the bond. The total of the district’s indebtedness, however, may not exceed 2.5% of the value of taxable property in the district. AB 2659 further restricts the amount of the tax per household, setting caps that are detailed in Table 4.

AB 1908 (Lempert)

Assembly Bill 1908 (Lempert) created specific guidelines for the oversight of the qualifying school bond measures. AB 1908 mandates an oversight committee be formed within sixty days after the school district enters the result of the bond election in its minutes.¹ This oversight committee is formed for the purpose of overseeing bond expenditures and informing the public about the expenditure of bond revenues. The committee is to focus specifically on whether the bond money is used for the purposes stated and whether independent financial and performance audits have been conducted.

The governing board of the school district appoints at least seven committee members to serve for two year terms, without compensation. No member may serve more than two consecutive terms. See Table 2.

TABLE 2		
Oversight Committee Membership		
Representative	Purpose	Specific Requirements

¹ After a school bond is approved, the bond doesn’t become active until the school district enters the results of the bond election in its minutes. This can create a small lag time.

1	Represent the senior citizen community	Must be active in a senior citizen organization.
1	Represent the taxpayers	Must be active in a bona fide taxpayers' association.
1	Represent small business community	Must be active in a small business organization.
1	Represent parents and students in the school district	For a K-12 district, the representative must be a parent or guardian of a child enrolled in the district. For a community college district, the representative must be a student who is actively enrolled in a community college organization.
1	Represent school and teachers in the district	For a K-12 district, the representative must be a parent or guardian of a child enrolled in the district as well as an active participant in a parent-teacher organization. For a community college district, the representative must be active in the support and organization of a community college.
2+	Represent the public at large	Must have at least two other members.

Note: no member may be an employee or official of the district nor a vendor, contractor, or consultant of the district.

While the membership requirements of the oversight committee are detailed, the requirements for the committee actions are not. The requirements state that the oversight committee must have regular meeting dates, time and place. Additionally, the records from these meetings are a matter of public record. With these general guidelines, the frequency of oversight committee meetings and the practical transparency of these committees has varied widely.

In pursuit of its objectives the committee may also carry out a number of hands-on activities; these activities are generally defined, and are not mandated. The committee may receive and review copies of the performance and financial audits as well as any deferred maintenance proposals or plans. The committee may also inspect school facilities and grounds to ensure compliance. Finally, the committee may review the school district's efforts to maximize bond revenues by implementing cost saving measures.

AB 2659 (Lempert)

AB 2659 (Lempert) limits the total amount of property tax a district levies to pay for all school bonds currently implemented, including the new bond. Table 3 details the limits AB 2659 (Lempert) imposed.

TABLE 3 Property Tax Caps	
Type of Board	Limitations on Tax
Unified School District	Cannot exceed \$60 per \$100,000 of



	the assessed property value
Elementary and High School Districts	Cannot exceed \$30 per \$100,000 of the assessed property value
Community College District	Cannot exceed \$25 per \$100,000 of the assessed property value

Charter Schools

In addition to governing school bonds, Proposition 39 addressed the issue of space allocation for charter schools. Proposition 39 requires school districts to provide adequate space for charter schools on district property. The space allocation shall be paid for by the charter school in question and based on the charter school's projection of average daily student attendance during the next school year.