



Clarifying  
Complex  
Education  
Issues

# Proposition 39:

## Relying on a “super-majority” to approve local school bond measures

**P**roposition 39—the “Smaller Classes, Safer Schools and Financial Accountability Act”—would reduce from two-thirds to a 55% “super-majority” the vote school districts and community colleges need to authorize local general obligation bonds for school construction.

At first glance, this measure on the November 2000 ballot seems like a rerun of Proposition 26, which was narrowly defeated by California voters in March. However, Proposition 26 would have reduced the percentage vote to a simple majority (50% + 1). Proposition 39 has other differences and also has support from high-profile business and political leaders, with Democratic Governor Gray Davis acting as the campaign’s chair and former Republican Governor Pete Wilson as its honorary chair.

The proposition’s authors say the rationale is to (1) “make sure our children have access to the learning tools of the 21st Century” such as computers and the Internet; (2) further implement class size reduction; (3) “repair and rebuild our dilapidated schools”; (4) provide charter school students with “reasonable access to a safe and secure learning environment”; and (5) “ensure accountability so that funds are spent prudently and only as directed by citizens of the community.”

This ballot measure mimics Proposition 26 in many ways. It would (1) prohibit use of bond money for salaries or operating expenses; (2) require a school district to publicize a list of intended projects; (3) add annual performance and financial audits for use of local bond money; and (4) require school districts to provide “reasonably equivalent” facilities for charter schools attended by the district’s students.

But unlike its predecessor, Proposition 39 calls for a higher threshold for bond measure passage. It also triggers accompanying legislation, Assembly Bill (AB) 1908, which limits the amount of the bond proposal and the subsequent increase in property taxes. AB 1908 also requires the appointment of a citizens committee to oversee how the money is spent if the bond passes.

### Proposition 39 would allow 55% approval for local school bonds

California’s Constitution has always required a two-thirds vote to approve local bonded indebtedness. Proposition 39 would amend Articles XIII A and XVI (Section 18) to give community college and K–12 school districts the option to seek a 55% “super-majority” for approval of local bonds for school construction.

### Bonds can only be used for facilities

Public school districts, community colleges, or county offices of education could use approved local general obligation bonds for the construction, rehabilitation, or replacement of school facilities. The bond money could also be used to acquire school sites, and to furnish and equip schools. The bond proceeds could not be spent for any other purpose, such as teacher and administrator salaries and other school operating expenses. This is consistent with current law.

### The proposition requires public disclosures and audits

Before holding an election, a school district or community college would have to publicize a list of the intended projects, along with certification that it evaluated “safety, class size reduction, and information technology needs” before preparing the list.

Proposition 39 also requires two independent audits each year until the bond money is spent. A performance audit would ensure that the funds were spent only on the specific projects listed. A financial audit would track the expenditures until all the proceeds were used.

### The ballot measure offers guarantees for charter schools

Proposition 39 amends Section 47614 of the Education Code to guarantee that students who attend a charter school in their district of residence have facilities that are “sufficient” and “reasonably equivalent” to the other buildings or classrooms in the district. The buildings also need to be “furnished and equipped” and reasonably close to where the charter school

To help voters understand Proposition 39, EdSource—a non-profit, nonpartisan education research organization—developed this impartial analysis that outlines the measure’s provisions and summarizes the major arguments pro and con.

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wishes to locate. To get this support, the charter school must serve a minimum of 80 students who live within the district's boundaries. The State Board of Education would have the task of establishing regulations and of defining crucial terms, such as "reasonably equivalent."

Under current law, school districts must offer charter schools any facilities that are not being used for instruction or administration. The charter school must provide maintenance for the facilities. In June 2000, about 105,000 students were in 309 charter schools. Up to 100 more charter schools are permitted each year until the Legislature reviews the charter school laws in 2003.

## **AB 1908 restricts the amount of the bond and adds oversight**

Signed into law by Gov. Davis on June 27, 2000, AB 1908 will not go into effect unless Proposition 39 is approved by the majority of the voters in the Nov. 7, 2000, election.

Under AB 1908 and Proposition 39, school districts and community colleges would have the option of proposing general obligation bonds for two-thirds vote passage under the old rules, or 55% passage under new, more stringent rules. The district or college would have to make that decision when proposing the local election, not after the votes are tallied.

But AB 1908 restricts county boards of education from proposing bonds at the 55% threshold even though county boards are included in Proposition 39.

Unlike Proposition 39, which would become part of the state's Constitution, AB 1908 is a law that can be changed by a simple majority vote of the Legislature and approval of the governor.

Under the new rules, two-thirds of the members of the school district or community college board would have to vote to propose a bond to local voters. (Current law requires a majority vote.) Elections could only be held on regularly scheduled or special statewide election days. (Currently school boards can hold bond elections throughout the year.)

## **AB 1908 limits the increase in property taxes**

When voters authorize a local general obligation bond, they are simultaneously authorizing an increase in local property taxes to pay the principal and interest due on the bonds. The "general obligation" assumed by voters is whatever property tax increase is necessary for the payments.

AB 1908 limits the increase in property taxes in a single election based on the type of school district. Unified school districts can propose bonds that increase taxes by \$60 per \$100,000 of assessed value, high school and elementary districts by \$30, and community colleges by \$25. (Assessed value is what appears on a property owner's tax bill, not the market value of the property.) Districts may propose another bond to voters in a later election.

The effect of Proposition 39 on property owners would depend on local school district and community college decisions and facility needs as well as whether 55% of the local voters agree to support those needs. The increase in local debt service statewide could be "hundreds of millions of dollars annually within a decade," the Office of the Legislative Analyst (LAO) reports, depending upon the acts of local voters.

## **The law calls for an "oversight committee"**

If the bond election succeeds at the 55% level, the school district or community college board must appoint a citizens "oversight committee" to monitor how the money is spent and "alert the public to any waste or improper expenditure."

The board must appoint the oversight committee within 60 days of the final election results. It must consist of at least seven members representing the business community, senior citizens, taxpayers organizations, parent-teacher organizations, and a parent. Community college districts must also include a student. Employees and officials of the district may not serve. Meetings must be open to the public and held in accordance with the Brown Act.

The committee must ensure that bond funds are properly spent as proposed on the ballot and that none are spent on school district salaries or operating expenses. It must issue annual reports available on the Internet. The committee can appeal to a judge to stop the expenditures and halt construction projects if the committee believes funds are being improperly spent.

The school district or community college board must also order annual performance and financial audits of the bond funds. The board must provide the audits to the oversight committee along with other information.

## **Schools have two primary sources for facility funds**

School districts have two major sources of funds for constructing or reconstructing schools. The first is local general obligation bonds authorized by two-thirds of the voters in a school district. The second is state general obligation bonds authorized by a majority of all state voters.

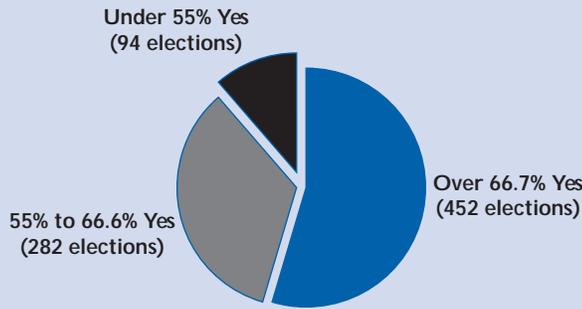
In 1998, state voters, by majority vote, approved \$6.1 billion in state bonds for K-12 school construction. Much of that bond money has already been allocated, but the fairness of that distribution is currently facing a legal challenge.

For school districts to be able to use the state funds, they must match them with a local contribution—50% for new facilities and 20% for renovation. No match is required in "hardship" cases. Districts must also allocate 3% of their General Fund to maintenance annually for 20 years.

Although school districts may be able to raise matching funds from sources such as fees on new development (so-

Figure 1

**Just over half of bond elections receive two-thirds voter approval**



From 1986 through June 2000, about half of California's school districts have proposed a total of 828 bond elections. Some of those 512 districts succeeded in passing more than one bond. More districts tried repeatedly when their initial proposal failed.

Just over half of the bond elections achieved the necessary two-thirds vote for approval. These totaled \$18 billion for local district construction and renovation projects.

Slightly over a third of the elections received more than the 55% yes vote proposed by Proposition 39, but fell short of the two-thirds needed for approval. Those 282 elections proposed \$12.7 billion in bonds. However, this number is misleading because of the districts that tried repeatedly to pass a similar proposal. If the 99 repeat elections are not counted, then the dollar total of bonds proposed would have been about \$9 billion.

The final slice of the pie shows the number of elections that would have failed—11%—even if Proposition 39 had been in effect.

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called “developer fees”) and the lease of unused buildings, the major source is usually local general obligation bonds.

Districts use local property tax revenues to repay, with interest, local general obligation bonds. Proposition 13 limited property taxes to 1% of assessed value unless voters had approved a bond before July 1, 1978. In 1986 California voters passed Proposition 46. This measure amended the Constitution to permit school districts and community colleges to increase property taxes above the 1% level in order to repay general obligation bonds—if two-thirds of the local voters agreed. (Article XVI, Section 18 of the Constitution permits a majority vote to repair, reconstruct, or replace buildings that are “structurally unsafe for school use.”)

Under the current two-thirds yes-vote requirement, about half of California's school districts have called elections for local general obligation bonds in the past 15 years. (See Figure 1.) Some have put bonds on the ballot several times, usually because of initial failures.

Many school districts have been successful in this effort. Since 1986, voters in K–12 jurisdictions have approved \$18 billion in local school bonds. During the same period, nearly \$13 billion more in local bonds received at least 55%—but less than two-thirds—voter approval and therefore were

defeated. This includes bonds that were submitted to voters more than once.

In recent years, according to the LAO, community colleges have rarely used local general obligation bonds to fund their facilities, relying instead on state bonds.

**School districts statewide need new or renovated facilities**

While Californians have made a substantial investment in school facilities in recent years, a critical need remains. The state's K–12 schools need to replace aging buildings, add new classrooms to support class size reduction, and make room for 80,000 new students each year. In addition, about a million California students attend schools with multi-track, year-round schedules because of space constraints.

In January 2000 the California Department of Education estimated the immediate statewide need for facilities over the next five years as \$8 billion in renovation, \$2.6 billion for deferred maintenance, and \$5.8 billion in new construction (\$8.7 billion in new construction over 10 years).

**Proposition 39 has its friends and foes**

The disagreement over Proposition 39 is not about the magnitude of the need for new and improved classrooms, but rather about how it should be addressed and by whom.

**Proponents include political leaders, business groups, and education organizations**

Besides support from the governor and former governor, the State PTA, the California Chamber of Commerce, and the Association for the Advancement of Retired People (AARP) signed the ballot argument, which also included a supportive quotation from the League of Women Voters. Co-chairs of the campaign are Silicon Valley businessmen: John Chambers, president and CEO of Cisco Systems; venture capitalist John Doerr; and entrepreneur and State Board of Education member Reed Hastings, who has a particular interest in charter schools.

Proponents say Proposition 39 will “fix the way our schools spend money and fix our schools.” They say it will “hold administrators accountable for spending school bond construction money” as well as “add more protection for taxpayers and homeowners.” Proponents argue that the ballot measure's provisions prohibit using funds for administration or bureaucracy and prevent financial abuses found in some California schools. They say the proposition includes “rigid” audits, a “tough 55% super-majority vote,” and “watchdog committees” empowered to “stop any project if audits show wasteful or unauthorized spending, inform the public of abuse or waste, and vigorously investigate and prosecute violations.”

Proponents also focus on the need for facilities, saying:

- ✓ California has more students per classroom than any other state except one [Utah];

- ✓ If California is going to reduce class size, school districts need to build more classrooms, including 20,000 new classrooms “just to keep up with the school population growth expected over the next 10 years;”
- ✓ Students in some districts go to class in trailers, cafeterias, libraries, and gyms that have been converted to classrooms; and
- ✓ Many schools need repairs and updating so children can use computers and connect to the Internet “where they can learn to use the tools they will need to succeed in the future.”

### The opposition is headed by the Howard Jarvis Taxpayers Association

Early in the campaign, the only formal opposition to Proposition 39 was headed by Jon Coupal of the Howard Jarvis Taxpayers Association. According to Coupal, the measure is opposed by other taxpayer groups and “apartment associations.” He and his colleagues oppose watering down the historical requirement for a two-thirds vote, and they consistently object to raising the property taxes beyond the Proposition 13 amount.

Opponents argue:

- ✓ A 55% standard will provide little comfort to taxpayers because it means that better than 94% of local school bond measures would pass, each burdening homeowners statewide with additional taxes, totaling up to “hundreds of millions of dollars annually.”
- ✓ The tax increase that would result if more bonds are approved is “discriminatory, falling solely on property owners.”
- ✓ The local matching requirement for state school facility bond money should be met by alternative local sources, such as developer fees and “existing revenues.”
- ✓ In previous elections in March 2000 and November 1993, voters preferred to keep the two-thirds vote requirement.
- ✓ Many districts have successfully gained two-thirds approval in a bond election, in part because of more sophisticated campaigns.
- ✓ The “critically important tax increase and accountability issues” in AB 1908 are not part of the state Constitution

and can be changed by a simple majority of the Legislature and the governor’s signature—without voter approval.

Opponents believe that the current law strikes a reasonable balance in providing significant funding for school facilities while at the same time protecting taxpayers from substantial property tax increases. They say it makes no sense to sacrifice the protection of a two-thirds vote to get accountability in school construction. Further, they say that the amount of money now being generated by local sources, under the two-thirds requirement, already outstrips that being generated by the state.

As the campaigns head toward their November conclusion, an increasing number of individuals and organizations will doubtless take formal stands in support or opposition. Current information about these actions will be available through the news media, online, and from the organizations themselves.

### Proposition 39 and AB 1908 would change the school facilities funding dynamic

Proposition 39, coupled with AB 1908, represents a significant change in the rules for funding public school construction. If passed, school districts and community colleges would find it easier to win voter approval for bonds. But they would also face tougher accountability measures and limits on the bond amount they could request.

The passage of Proposition 39 on Nov. 7 could help school districts and community colleges raise local funds to fix aging and crowded school buildings and to build new ones in fast-growing areas. But it would also reverse the state’s long-held requirement of a two-thirds voter approval for local school bonds. Voters will have to decide whether they believe it is fair and necessary to lower that threshold to a “super-majority.”

#### To Learn More

Opponents and proponents of Proposition 39 have their arguments and supporting information on their websites: [www.saveourhomes.com](http://www.saveourhomes.com) and [www.betterschoolsforca.org](http://www.betterschoolsforca.org), respectively. The Office of the Legislative Analyst’s review of the November ballot measure is at [www.lao.ca.gov](http://www.lao.ca.gov), and the text of the proposition and ballot arguments are provided by the Office of the Secretary of State at [www.ss.ca.gov](http://www.ss.ca.gov). For background on school facilities, order the April 1998 EdSource report, *California’s School Facilities Predicament*, from the EdSource office.



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