

CALIFORNIA'S SCHOOLS & PROPOSITION 39

On the November 2000 ballot, Proposition 39, the *Smaller Classes, Safer Schools and Financial Accountability Act*, asks voters to decide whether to replace the current two-thirds voter approval requirement with a 55 percent requirement for the passage of local school bond measures. Proposition 39 is nearly identical to Proposition 26, a measure that was rejected by voters in the March 2000 election that would have lowered the vote requirement for school bond measures to a simple majority.

WHAT WILL PROPOSITION 39 DO?

Proposition 39 makes both constitutional and statutory changes to the current laws governing school facilities funding in California. In brief, Proposition 39:

- Allows 55 percent of local voters to approve school bonds, a reduction from the current two-thirds requirement.
- Imposes accountability requirements on districts that want to issue school bonds.
- Allows charter schools greater access to public school facilities.

Thirty-eight states allow majority approval of school bonds under all circumstances. Only California and New Hampshire require two-thirds approval for local school bonds at all times.

Vote Requirement

Current Law. The voters must approve General Obligation (GO) bonds, whether issued by the state or local governments.¹ While the state can issue GO bonds by majority voter approval, all bonds issued by local governments have been required to achieve two-thirds voter approval since 1879. While the issuance of local bonds required supermajority approval, voter approval was not required for any property tax increase needed to repay any approved bonds.

Prior to Proposition 13, local school districts levied property tax rates based on the amount of revenue needed to support both operating and facility costs. In 1978, voters approved Proposition 13, which capped local property tax rates at one percent, reducing property tax revenues by more than half.² The reduction in revenues limited local governments', including schools', ability to finance facilities with locally-generated property tax revenues and prevented the imposition of additional tax rates dedicated to the repayment of debt.

In 1986, voters approved an amendment to the state constitution allowing local governments to levy property tax rates in excess of one percent to pay the interest and principal on bonds used to finance the acquisition or improvement of public facilities with the approval of two-thirds of the votes cast. This gave local governments the ability to increase property taxes above Proposition 13's one percent cap for a very specific purpose – the repayment of voter-approved debt.

Proposition 39. If enacted, Proposition 39 would allow local school districts, community college districts, and county Offices of Education to increase the property tax rate above the one percent cap with 55 percent of the votes cast.

In order for a school bond measure to qualify for the 55 percent voter approval provided for in Proposition 39, the school district, community college district, or county Office of Education must:

- Use the proceeds from the bonds solely for the construction, rehabilitation and replacement of school facilities, including the furnishing and equipping or the acquisition or lease of real property for school facilities;
- Certify that safety, class size reduction, and technology needs were evaluated when developing the required list of projects to be funded by the bonds; and
- Conduct annual financial and performance audits to ensure that the funds have been used responsibly and solely for the specific projects listed.

The vote requirement for bonds to finance facilities other than schools would remain two-thirds.

Related Legislation Imposes Restrictions on Bond Funds

Legislation passed earlier this year (AB 1908, Chapter 44 of 2000) imposes a number of restrictions on bonds issued using the authority granted by Proposition 39. State law:

- Requires the governing body of a school or community college district to approve bond measures by two-thirds, rather than a majority vote.
- Requires appointment of an oversight board to monitor how bond funds are used and to conduct annual audits of bond fund expenditures.
- Imposes a cap on the tax rate levied by bond measures enacted pursuant to Proposition 39. Unified school districts would be limited to a tax rate no higher than \$60 per \$100,000 of taxable property; school districts would be limited to a rate no higher than \$30 per \$100,000 of taxable property; and community college districts would be limited to a rate no higher than \$25 per \$100,000 of taxable property at a single election.

Charter Schools

Current Law. School districts must permit charter schools operating in the district to use facilities that are not currently being utilized or that have not been historically used for rental purposes. Charter schools do not have to pay a fee to use the facilities, but they are responsible for reasonable maintenance costs.

Proposition 39. Proposition 39 requires school districts to make facilities reasonably equivalent to those in other public schools in the district available to charter schools. However, districts are not required to rent, buy, or lease facilities for charter school students, and they may deny requests from charter schools that enroll fewer than 80 students from within the district. School districts may charge charter schools for their share of any facility costs.

HOW WILL PROPOSITION 39 AFFECT SCHOOL FACILITY COSTS?

Allowing local voters to approve school bonds with 55 percent of the vote will almost certainly increase the number of successful local bond measures. To the extent more bond measures are successful, Proposition 39 will lead to an increase in local property tax rates. However, the exact cost of Proposition 39 is unknown and the overall impact on state and local finances is more complex. To the extent a 55

percent vote requirement allows local districts to raise a greater share of the funds needed for school facilities at the local level, state costs could decline. The Legislative Analyst’s Office (LAO) estimates that Proposition 39 could result in increased local costs in the hundreds of millions of dollars within a decade.³

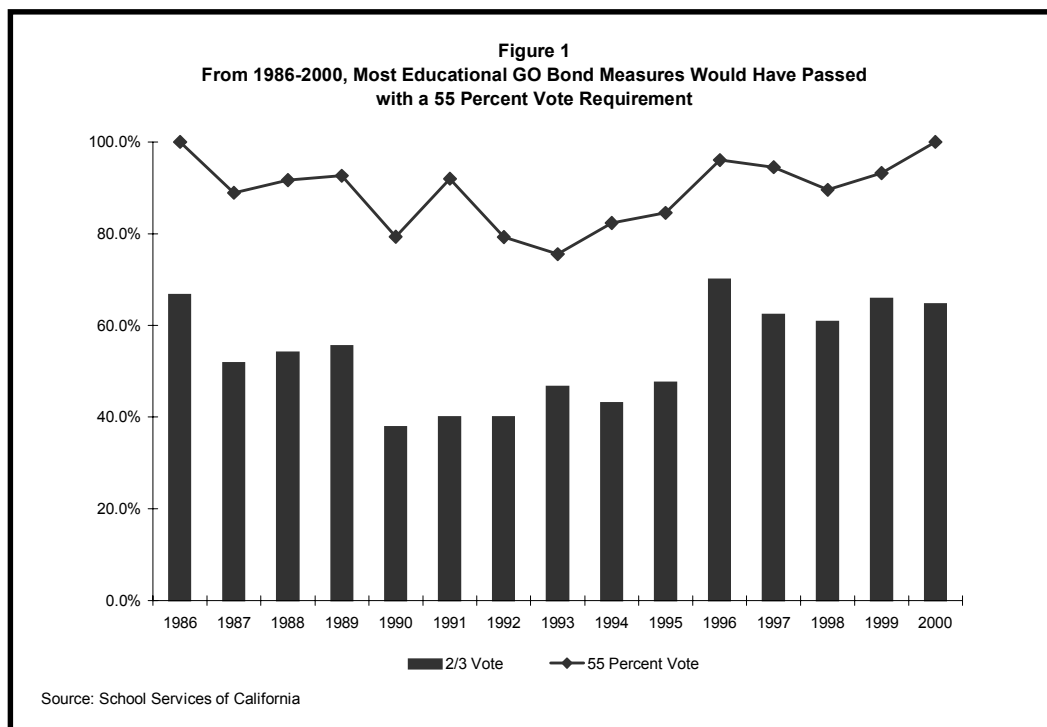
The success rates of past K-12 bond elections suggest that significantly more bonds would have passed if a 55 percent vote requirement had been in place from June 1986 through March 2000.⁴ Voters approved \$16.5 billion under the existing two-thirds requirement.⁵

Measures with 2/3 approval on first attempt	11,667.26
Measures with 2/3 approval on subsequent attempts	4,868.30
Total with 2/3 approval	16,535.56
Measures never receiving 2/3 approval	5,267.58
Measures with over 55% but less than 2/3 approval	4,172.73

Source: CBP calculations on data from School Services of California

An estimated \$4.2 billion in additional bonds would have been approved if a 55 percent vote requirement had been in place. Sixty-eight percent of bond measures defeated between 1986 and 2000 would have passed had Proposition 39 been in effect.

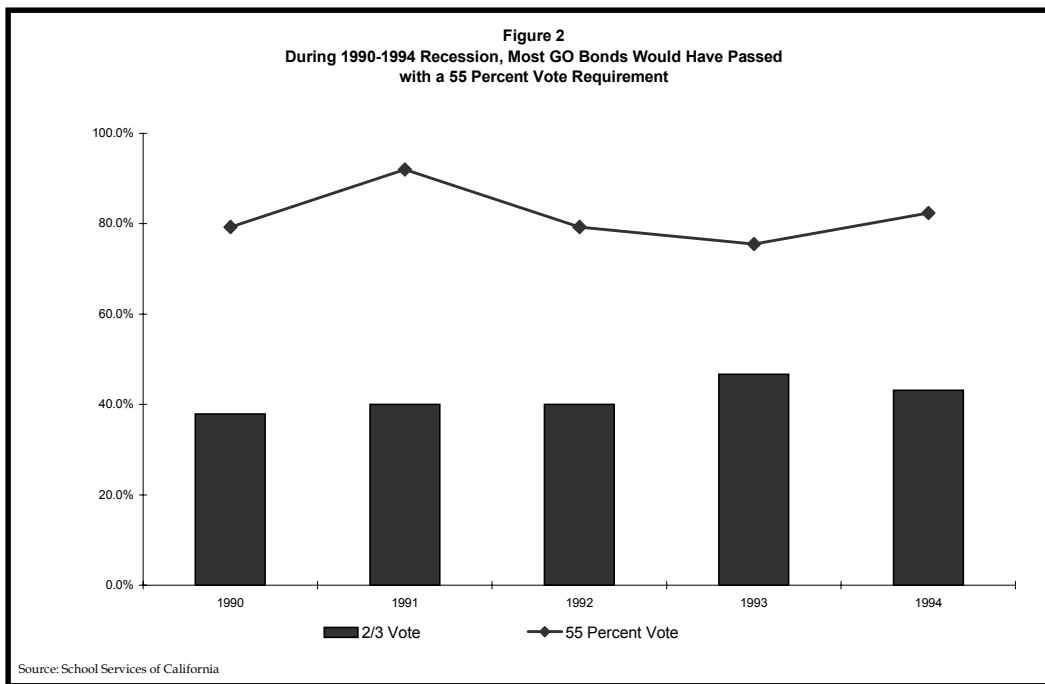
Reducing the voter approval requirement for school bonds may also increase the ability of local districts to raise money during recession years. For example, during the recession years of 1990 through 1994, only 42 percent of local school bond measures passed, for a total of \$2.7 billion. In contrast, voters approved 54 percent of the bonds on the ballot between 1986 and 1989 and 61 percent on the ballot between 1995 and 2000. If a 55 percent vote requirement had been in place, over 82 percent of the bond measures would have passed in each of the three periods.



The impact of reducing the vote requirement on state costs is less clear. The LAO predicts two possible outcomes.⁶ One is that ‘hardship’ districts that currently rely on the state for 100 percent of their funding for school facilities might be able to raise local funds with successful bond measures. Alternatively, by making it easier to raise the required local match, Proposition 39 could increase state debt service costs as more districts participate in the state’s School Facility Program.⁷

WHAT ARE CALIFORNIA'S PUBLIC SCHOOL FACILITY NEEDS?

The California Department of Finance (DoF) estimates the total funding need for new and improved public school facilities to be \$14.1 billion with \$5.2 billion provided by existing bond authority.⁸ This leaves a gap of \$8.9 billion over the next 10 years for K-12 school facilities construction, maintenance and modernization. Factors driving demand for new facilities include increased enrollment, the need for new classrooms to implement the state's class size reduction program, new technologies and curriculums, and deferred maintenance of older school facilities.



Modernization and Deferred Maintenance

The California Department of Education (CDE) estimates that between 1998 and 2003 local school districts will need \$2.6 billion for deferred maintenance and \$8.1 billion to modernize school facilities.⁹

The conditions of California's schools compare poorly to those in other states. A study by the federal General Accounting Office found that the share of California's schools with inadequate facilities exceeded the national average in all of the areas examined (Table 2). The California schools surveyed had only one computer for every 21 students, despite the state's role as the recognized leader of the high tech economy. Only two other states, Ohio and Rhode Island, have higher student to computer ratios.¹⁰

Increased Enrollment and Class Size Reduction

The CDE estimates that enrollment will increase by over 285,000 students between 1998-99 and 2003-04, with most of the growth occurring in grades 7-12. Housing the increased enrollment will require an estimated 434 new schools, 323 in grades K-8 and 111 in grades 9-12 at an average cost of \$8.1 million per elementary school, \$14.1 million per middle school and \$35 million per high school.¹¹

California's Class Size Reduction (CSR) program, enacted in 1996, compounds facility shortages. By 1998, California's elementary schools had reduced class sizes for approximately 85 percent of K-3 stu-

dents by adding 28,000 new classroom spaces both by building new classrooms or going to year-round schedules.¹² While funds from Proposition 1A will address some of this need, expanding the program to other grades will require additional funds.

HOW DOES CALIFORNIA CURRENTLY PAY FOR PUBLIC SCHOOLS?

California finances the construction, maintenance, and repair of public school facilities using a combination of state and local school district funds. The state provides assistance for construction and maintenance of K-12 facilities and provides funds for the California Community College (CCC)

system and state special schools. In 1998, SB 50 revised the system that the state uses to provide assistance to local school districts for education infrastructure. The State Allocation Board (SAB) allocates state school facility funds. The SAB provides New Construction grants, which require local districts to match state funds on a dollar for dollar basis and Modernization grants, which require local districts to provide a match of \$1 for every \$4 in state dollars received.¹³

State funding for the School Facility Program comes from the General Fund and state-issued bonds. In November 1998, California voters approved Proposition 1A authorizing \$9.2 billion to be allocated over a four-year period. Proposition 1A provides \$6.7 billion for K-12 facilities (\$2.9 billion for new construction, \$2.1 billion for modernization, \$1 billion for ‘hardship’ districts that cannot fulfill the local match requirements, and \$700 million for new K-3 Class Size Reduction facilities) and \$2.5 billion for higher education facilities.

Local school districts’ options for financing school facilities are more limited. Local school districts in areas with new residential development have the option of raising funds for new construction using Mello-Roos assessments and developer fees.¹⁴ This approach is less feasible for districts in “built out” communities that must rely primarily on GO bonds. However, Proposition 1A’s restrictions on the use of developer fees may make it more difficult for districts to recover the cost of facilities needed by new development, thereby increasing growing communities’ reliance on bonds.

Table 2: California Schools Report Inadequate Facilities			
	Percent of Schools with Inadequate Facilities	National Average	CA's Rank*
Schools with at least one inadequate building feature	71	57	48
Schools with at least one inadequate environmental factor	87	68	51
Building Features		Percent of Schools with Inadequate Features	
Roofs	40	27	49
Heating, ventilation or air conditioning	41	37	34(b)
Life-safety codes	21	20	30(a)
Environmental Features		Percent of Schools with Unsatisfactory Factors	
Lighting	31	15	50
Physical security	41	24	51
Technology		Percent of Schools with Insufficient Capability	
Computers	37	25	44(b)
Printers	40	29	42(a)
Modems	70	57	44(a)
Wiring for communications	69	44	49

* Rank is among 50 states and D.C.

(a) 2-way tie

(b) 3-way tie

Source: GAO, School Facilities: Profiles of School Condition by State, June 1996

WHY DO SOME BOND MEASURES SUCCEED WHILE OTHERS FAIL?

Between June 1986 and March 2000, 462 of California's nearly 1,000 school districts placed 730 bond measures before the voters for approval.¹⁵ Three-quarters of these districts succeeded in passing a bond measure at some point during this period (Table 3).

In order to evaluate potential impacts of Proposition 39, the California Budget Project (CBP) analyzed the relationship between the outcome of votes on bond measures and the characteristics of California's school districts. CBP sought to identify the factors that are associated with the success rate of bond measures. The factors examined included the size of the bond measure and school district characteristics such as the size of the district, the diversity of student populations, and the students' economic status.¹⁶

This analysis found that:

- **Districts with more poor students are less likely to pass bond measures.** There was a small, but significant, decrease in the likelihood that a school bond measure would pass in districts with higher percentages of children aged 5 to 17 in families with incomes below the poverty threshold.
- **The strength of the economy influences the passage of bond measures.** CBP found that in 1992, in the depths of the recession in California, bond measures were significantly less likely to pass as voters were unwilling to take on more debt in uncertain economic times. Conversely, voters have looked more favorably on school bonds since 1996 as the economy has strengthened.
- **Student diversity has mixed impact on bond measure success.** Districts with higher percentages of African-American students were more likely to approve bond measures, while districts with a higher percentage of Asian students were less likely to pass school bonds. Additionally, districts with a higher percentage of students with limited English proficiency were more likely to pass bond measures.

The factors that did not statistically influence the outcome of school bond measure elections were almost as interesting as those that did. For instance, neither the size of the bond measure being considered nor the size of the school district had a significant impact on election outcomes.

ARGUMENTS SUPPORTING AND OPPOSING PROPOSITION 39

In Support. Proponents state that the current two-thirds vote requirement thwarts the will of the majority of California voters and allows a minority of voters to block needed school facility improvements. They argue that the property tax is a broad-based tax, since landlords pass increases on to renters, so reducing the vote requirement ensures that all voters will have an equal voice in the decision to issue school bonds.

The existing disparity between the two-thirds requirement for bond approval at the local level and the simple majority requirement at the state level forces districts to rely on the state for their school facility needs. Proposition 39 would return control of school construction to local voters, while providing safeguards against school district fiscal and administrative irresponsibility.

Table 3: Success at the Ballot Box Varies by District Results of School Bond Measures from 1986-2000

Election Results	Number of Districts
Measure Passed	254
Measure Failed	115
Both Passed and Failed	93

Source: School Services of California

Proponents reiterate that, while Proposition 1A provides state funds for school facilities, local districts must raise the required matching funds. They argue that the current two-thirds vote requirement makes raising these funds unreasonably difficult, resulting in dilapidated and technologically inadequate schools.

Finally, proponents argue that in order for California to maintain a strong economy it must improve its schools. California will find it difficult to attract businesses to the state without a skilled labor force and the opportunity for a good quality of life. Schools are a key element in both of these. Given this, the current state of California's school facilities must be addressed not only to maintain economic growth but also to provide adequate space for increasing enrollments and to ensure the safety of students and faculty.

In Opposition. The opponents of Proposition 39 voice three primary concerns over reducing the current two-thirds vote requirement to 55 percent. First, they argue that while all voters can vote to pass a local school bond measure, it is only the property owners who are legally responsible for repaying the bonds. Thus, the higher vote standard is necessary to protect property owners.

Opponents are also concerned that if it becomes easier to pass local school bond measures, then more controversial measures (i.e., measures to raise money to build swimming pools, tennis courts, etc.) and larger measures would be put on the ballot. If these pass, the result would be unduly high property taxes. Finally, opponents argue that passing Proposition 39 would encourage others to advocate the elimination of all two-thirds vote requirements for local bonds and taxes, thereby increasing the burden of California taxpayers.

CONCLUSION

There is very little debate over either the importance of good schools for California's economic future or the need for better school facilities in the state. Proposition 39 would most certainly make it easier for local voters to approve bonds to address school facility needs and so deserves careful consideration. When evaluating Proposition 39, voters should consider the following issues:

- Does the current two-thirds vote requirement place an unreasonable barrier between school districts and the funds needed to improve inadequate facilities?
- Does the discrepancy between the simple majority requirement for state bonds and the two-thirds requirement for local bonds prevent some districts from accessing available state dollars for facility improvements?
- Does the current two-thirds vote requirement give certain voters' preferences on school facilities funding greater weight than the preferences of other voters?
- Are certain types of districts (i.e., districts with higher percentages of poor students) disproportionately affected by the current two-thirds vote requirement?

Delaine McCullough prepared this Brief. The California Budget Project (CBP) was founded in 1994 to provide Californians with a source of timely, objective and accessible expertise on state fiscal and economic policy issues. The CBP engages in independent fiscal and policy analysis and public education with the goal of improving public policies affecting the economic and social well-being of low and middle income Californians. Support for the CBP comes from foundation grants, publications and individual contributions. The CBP neither supports nor opposes Proposition 39.

ENDNOTES

¹ A GO bond is a bond that is repaid from the state or local government's general fund and backed by the full faith and credit of the issuing entity.

² Proposition 13 also made a number of other changes limiting the growth of property tax revenues and imposing supermajority vote requirements on certain local tax increases. Subsequent legislation divided property tax revenues between individual jurisdictions within a county in rough proportion to the shares received prior to the passage of Proposition 13.

³ Legislative Analyst's Office analysis of Proposition 39 sent to Attorney General Bill Lockyer on April 10, 2000.

⁴ CBP's analysis of GO bond election results for this period does not include special elections held between June 1999 and March 2000.

⁵ This estimate includes bonds that passed on the first attempt or passed within five years of the first attempt during the period analyzed. The estimate of the dollar value of defeated bonds excludes repeat elections within a five-year period by a single district.

⁶ Legislative Analyst's Office analysis of Proposition 39 sent to Attorney General Bill Lockyer on April 10, 2000, p. 3.

⁷ In order to participate in the state's School Facility Program, local districts must raise funds to match the state's contribution. If a district is unable to do so and they do not qualify for 'hardship' funds then they cannot participate.

⁸ California Department of Finance, *Capital Outlay & Infrastructure Report* (1999), p. 3.

⁹ California Department of Education, School Facilities Planning Division, *School Facilities Fingertip Facts* (January 2000).

¹⁰ U.S. General Accounting Office, *School Facilities: Profiles of School Condition by State* (June 1996).

¹¹ California Department of Education, School Facilities Planning Division, *School Facilities Fingertip Facts* (January 2000).

¹² EdSource, *What Has Created California's School Facilities Predicament* (April 1998), p. 1.

¹³ SB 50 of 1998 (Chapter 407) requires that local school districts establish a restricted account within their general fund for maintenance of school facilities. The districts must earmark three percent of their annual budget, which can be counted toward the district's matching fund requirements, for this maintenance fund for 20 years after receipt of state school facilities money.

¹⁴ Proposition 1A restricted school districts' ability to impose developer fees by instituting a cap on fees. Districts must generate any additional revenues needed for facilities from other sources. This is primarily done with GO bonds.

¹⁵ The exact number of districts varied by year.

¹⁶ The analysis was based on data obtained from the California Department of Education's California Basic Educational Data System (CBEDS) for 1986-99 and the U.S. Bureau of the Census 1995-96 School District Estimate Files. All results reported are statistically significant with $p \leq .05$ using a weighted least squares regression.