

# Update on the Law of Public Revenues

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CA County Counsels Assn  
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## Prop. 62 Litigation

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- Griffith v. County of Santa Cruz, 6<sup>th</sup> DCA No. H019505
- Voters approved Scotts Valley UUT and repealed County's while litigation pending
- On remand trial court found Scotts Valley case wholly moot, prospective relief moot in County case, and refund claims against County limited by failure to timely claim

## 911 Fees

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- San Francisco adopted post-Loma Prieta
- More recent adopters have faced litigation
  - Union City (general law)
  - Stockton (charter)
  - Santa Cruz
- Santa Cruz trial court victory

# Prop. 218 & Utility Rates

- *Apartment Ass'n v. LA* (2001) & *HJTA v. LA* (2000) held that utility rates based on metered consumption were not subject to Prop. 218
- *Richmond v. Shasta CSD* (2004) raised questions on this issue
- *HJTA v. Fresno* (3/23/05) ruled metered water, sewer and trash rates subject to 218. Rehearing and review pending.
- *Bighorn-Desert View Water Agency v. Beringson* (pending) may decide the question.

# General Fund Transfers

- Cost Allocation, Debt Repayment Raise No Questions
- Prior to Prop. 218 *Hansen v. Ventura* (1986) allowed return on investment
- *HJTA v. Roseville* (2002) said that Prop. 218 prohibits this, at least for fees governed by Prop. 218
- *HJTA v. Fresno* invalidated PILOT, finding underlying utility fees subject to 218. Rehearing and review pending.

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# Storm water & NPDES

- General & special taxes w/ voter approval
- Assessments if special benefit can be shown
- Property-related fees with Prop. 218 compliance
- Non-property related fees
- Transfers from utility funds?
- But cf. *HJTA v. Salinas* (2002) (property-tax-roll fee was subject to Prop. 218)
- ACA 13 would add “flood control and storm and surface water drainage” to 13D, § 6(c).

# Bed Tax Litigation

- *City of San Bernardino Hotel / Motel Association v. City of San Bernardino* (1997) (void for vague distinction between short-term apartment tax-free rentals and taxed hotel stays)
- *Patel v. City of Gilroy* (2002) (clarified ordinance solved this problem)
- *City of Vacaville v. Pitamber* (2004) (same and upholding use of subpoena to get tax records)

# Open Space Assessments

- Does regional open space provide special benefit to justify assessing private property?
- *BadTax v. MRCA* – trial court victory, appeal abandoned
- *Silicon Valley Taxpayers Ass'n v. Santa Clara County Open Space Authority* – trial court victory, pending in 6<sup>th</sup> DCA

# Prop. 218 Initiatives

- *Bighorn-Desert View Water Agency v. Beringson* (pending in Cal. S. Ct.)
  - Initiative to cut water rates by 1/2 and require voter approval for all further increases
  - Trial and Court of Appeal held void
  - S. Ct. granted review, probably to reach the question left open in *Richmond v. Shasta re metered utility rates*
  - Even if lose the metered rate question, strong arguments against the initiative