

# CLIENT NEWS BRIEF

## Legislature Takes Another Run At Bond Measure Ballot Language Requirements

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In an ongoing saga that began with the passage of Assembly Bill (AB) 809 in 2015, the Legislature has, once again, amended bond measure ballot language requirements for local agencies. Senate Bill (SB) 268 would allow local agencies, when submitting to voters a bond measure or a measure that imposes or raises taxes with more than one rate, to choose between two options for the summary statement of the measure. Each option triggers a different form of "tax rate statement" required to be presented to the voters.

### Background

The impetus for SB 268 appears to be the varying degrees of puzzlement local agencies and elections officials have expressed since the last time the Legislature amended the summary statement requirements for these types of measures. AB 809, passed in 2015, and AB 195, passed in 2017 ([See 2017 Client News Brief No. 82](#)), added, and clarified, respectively, the Elections Code requirement that summary statements for all local ballot measures that impose or raise a tax (including bond measures) must include the amount of money the tax will raise annually and the rate and duration of the tax to be levied.

In the wake of AB 809 and AB 195, many, including the author and proponents of SB 268, have pointed out that local agencies cannot practically state the rate, duration, and annual tax revenue in connection with a general obligation bond measure because those figures cannot be known at the time of an election on the measure. Further and as we noted in our prior news brief, inclusion of the new disclosure requirements in the summary statement, which is limited to 75 words, restricts local agencies' opportunity to meaningfully communicate the purpose and works to be funded by the measure.

### SB 268

SB 268 clears up these problems by providing an option for local agencies proposing a bond or a tax with more than one rate. Going forward, summary statements for bond measures or multiple-rate taxes can either comply with the existing requirement to state the rate, duration, and annual amount raised in the summary statement, or can instead choose to include in the summary statement the words: "See voter guide for tax rate information."

If the voter guide reference option is selected, the local agency must then broaden the existing tax rate statement requirements to include a substantial amount of additional information including, among other items, descriptions and explanations of the purpose and use of the proceeds to be generated, and the factors affecting variability and duration of tax rates.

### Effect on March 2020 Election

SB 268 is not an "Urgency Measure," meaning that, unless vetoed by Governor Newsom, it will take effect January 1, 2020. However, ballot materials for the March 3, 2020 election must be prepared and filed in advance of January 1, by statute. Contemplating this calendar disconnection, the Legislature expressed



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its intent that “elections officials prepare ballot materials for the March 3, 2020, primary election in compliance with this act.” It is unclear whether county elections officials, whose statutory deadlines for March 2020 election filings precede the effective date of the bill, will observe the Legislature’s desire that it apply nonetheless.

Lozano Smith has analyzed the challenges posed by SB 268’s applicability to the March 2020 election, and is prepared to address those challenges head-on with a variety of legal strategies.

Lozano Smith has expertise in public finance matters, serving as bond counsel on more than \$1 billion in school district and community college district bond issues. Lozano Smith will be conducting School Bond Workshops across the state, covering topics that include:

- Elections: Timelines and requirements
- Bonds: Types, validity and tax treatment
- Roles and Responsibilities: Committees, consultants, and counsel
- Disclosure and Record-keeping: Regulations and legal considerations
- Statewide Bond: Matching and impact

For more information about upcoming Lozano Smith events or to schedule a School Bond Workshops for your District, please contact our [Client Services](#) department.

For questions regarding SB 268, including its effect on a planned ballot measure, or to discuss any other public finance matters, please contact the authors of this Client News Brief or an attorney at one of our [eight offices](#) located statewide. You can also subscribe to our podcast, follow us on [Facebook](#), [Twitter](#), and [LinkedIn](#) or download our [mobile app](#).