TAB 1

BASICS OF CITY & COUNTY REVENUES

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INSTITUTE FOR LOCAL GOVERNMENT℠

Promoting Good Government at the Local Level

Understanding the Basics Of County and City Revenues

Updated: 2013

The Institute for Local Government's mission is to promote good government at the local level with practical, impartial and easy-to-use resources for California communities. ILG is the nonprofit 501(c)(3) research and education affiliate of the League of California Cities and the California State Association of Counties.

The Institute's current program areas include:

- Local Government 101
- Public Engagement
- Public Service Ethics
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Overview

Each one of California's 38 million residents lives within the boundaries of one of the state's 58 counties. Over 31 million people also live in one of California's 482 cities.[1]

Counties and cities both provide a vast array of municipal services to residents and businesses. These services include public safety (police, fire and emergency services), parks and recreation, roads, flood protection, sewers, water, refuse disposal, recycling and other utilities. Counties have an additional role as a provider for many state-mandated services, such as foster care, public health care, jails, criminal justice and elections.[2]

How do counties and cities pay for such services and facilities? The short answer is they rely on a variety of revenues.

The actual revenues vary between counties and cities, based on the roles they play in our system of government. The combination and level of revenues also varies from county to county and city to city.[3]

The legal requirements for collecting and using the variety of revenues available to cities and counties differ. Therefore, it is important to understand the opportunities and constraints that attach to each source of revenue.

This guide provides a basic overview of the sources of county and city revenues.

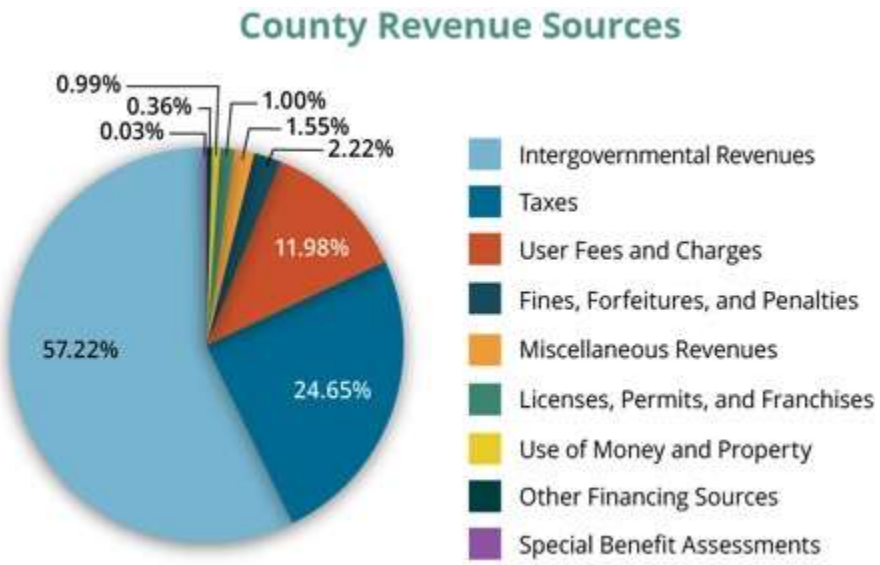
How to Use This Information

California state and local finance is a very complex subject. This resource is intended only as a general overview. For specific questions on public finance topics, the Institute for Local Government recommends that readers consult with a local government attorney or other expert. This resource is not intended as legal advice.

Key County Revenue Streams

Individual local revenue streams vary. The graph below presents a big picture view of general components of county revenues statewide.

Funding from the federal and state government for health and human services are the largest source of county revenues. Property taxes and sales and use taxes are the primary funding sources for many county services that do not have a dedicated state or federal funding source.[4]

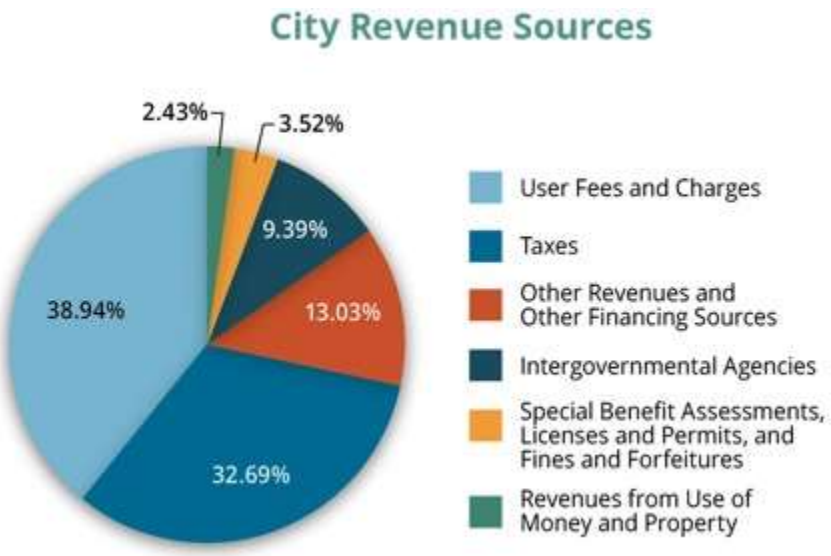


This data is available from the office of the California State Controller. The State Controller prepares annual reports from information provided by cities and counties each year.[5]

Key City Revenue Streams

Individual local revenue streams vary. The graph below presents a big picture view of general components of city revenues statewide.

After property taxes, user fees and charges for city utilities such as water, sewer and garbage collection are the largest source of city revenues. The use of these funds is limited to covering the cost of providing these services. Major sources of city revenue for day-to-day operations and services come from sales and use tax, business license tax (a tax on businesses in the city, usually measured by gross receipts), transient occupancy (or hotel bed) tax and utility user tax.[6]



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The Fiscal Players: The State Legislature, Cities and Counties, and the Voters

Locally elected officials in cities and counties throughout California do their best to match revenues with providing services and facilities needed by their communities. However, a local council member or member of the board of supervisors does not have full control over the type or amount of revenue that can be raised or the purpose for the revenue.

Some of the most significant limitations on the local revenue-raising include:

- Property tax rates are fixed and the distribution of property tax to counties, cities, special districts and school districts is controlled by the legislature.[8]

- Imposing, increasing or extending any type of tax requires voter approval.[9]

- Fees for the use of local agency facilities and for services may not exceed the reasonable cost of providing those facilities and services.[10]

- Assessments to pay for public facilities that benefit real property require property owner approval.

- Fees for services such as water, sewer, and trash collection are subject to property owner majority protest.[11] A city or county adopts rates at a public meeting, with certain charges requiring a public hearing (see page 21 for more information).

From time to time, state policy fundamentally shifts how local revenue can be used. Examples include:

- In 2011, the Legislature and Governor dissolved redevelopment agencies, the local political entities charged with eliminating blight by facilitating economic development and affordable housing. Redevelopment agencies were funded primarily with a portion of the property tax. The dissolution reallocates this portion of a property tax back to cities, counties, special districts and schools after the debts of the former redevelopment agency have been paid.

- In 2011, the Legislature and Governor "realigned" to counties certain public safety programs previously operated and paid for by the state. This means counties are carrying out programs that were previously carried out by the State of California. This realignment is funded by reallocation of vehicle license fee revenue to counties and an increase in state sales tax. Voters approved both the realignment of services and the reallocation and increase in state sales tax to fund them when they approved Proposition 30 in 2012.

Taxes

This guide begins with a discussion of taxes because, according to the California Constitution, every local agency charge is a "tax," unless it falls into one of seven listed exceptions.[13] The most common exceptions are:

- A charge imposed for a specific service (such as a charge for water or sewer service);
- A benefit assessment (such as a charge to pay for landscaping or lighting);
- A property-related fee or charge (such as charge for water service);
- A penalty or fine for violation of an ordinance;
- A charge imposed for rental of local agency property; or
- A development-impact fee (such as a traffic impact fee imposed on property development).[14]

Tax revenues are an important source of funding for both county and city services. In addition to local taxes, counties rely significantly on tax dollars allocated from the state and federal governments.

Interesting to Know: Roles and Responsibilities

County Assessor. The assessor sets values on property and produces an annual property tax assessment roll.

County Auditor-Controller. The auditor-controller receives the assessed values from the assessor and calculates the amount of property tax due.

County Treasurer-Tax Collector. The treasurer-tax collector administers the billing, collection, and reporting of property tax revenues levied annually throughout California for not only the county, but also cities, schools, and special districts.

State Board of Equalization. The State Board of Equalization collects local sales and use tax revenues from the retailer and sends the revenue back to cities and counties. The State Board of Equalization also administers the sales and use tax system and collects fuel, tobacco and alcohol taxes.

Transportation Planning Agencies.[12] Transportation planning agencies are regional agencies that receive federal and state transportation funds that are distributed to cities, counties, and local transportation planning agencies.

Counties and cities may impose a variety of taxes. Taxes fall into one of two categories: 1) general or 2) special.[15]

1) A **general tax** is imposed to raise general-purpose revenues. Counties and cities may use revenues from a general tax for any lawful city or county public purpose. A majority of voters must approve the decision to impose, increase, or extend a general tax.[16] A general tax may only be submitted for voter approval at an election for city council or board of supervisors unless the unanimous vote of the city council or board of supervisors declares an emergency.[17]

2) A **special tax** is a tax imposed for a specific purpose or project.[18] For example, a city may increase the sales and use tax by adding a special use tax for the acquisition of open space or for transportation projects. Since the tax is for a specific purpose, the revenues may only be used for that purpose. Two-thirds of voters must agree to adopt, increase, or extend a special tax.[19] Any tax can be identified as a special tax.

Property Tax

How the Tax is Calculated

The property tax is a tax on certain kinds of property. It is based on the value of the property.[20] For many local governments, revenues from property taxes make up the foundation of their budgets.

The property tax is imposed by a county and divided up between the county, cities, special districts, and school districts within the county according to a formula contained in state law. Taxable property includes “real property” (land and the buildings that are on it), as well as things like boats, aircraft and business equipment.[21]

The maximum tax rate permitted on real property for general purposes is one percent of the property's assessed value.[22] The annual adjustment to the property’s assessed value for inflation cannot exceed the level inflation or two percent per year (whichever is lower).[23] Changes in assessed value above the two percent limit are also allowed for the market value of improvements.

If a property changes hands, then the assessed value becomes what the buyer paid for the property.[24]

The one percent maximum rate can only be increased to pay for debt incurred for the acquisition or improvement of real property, if the voters approve such an increase by a two-thirds vote margin.[25]

Property that declines in value may be reassessed downward.[26] County assessors have procedures for requesting a downward adjustment in value which results in a reduction in the property tax.

Sample Property Tax Calculation

2012 Purchase Price	$	300,000
2012 Property Tax Obligation (1%)	$	3,000
2013 Increase in Property Value (2%--as limited by the California's Constitution)	$	6,000
2013 Property Value	$	306,000
2013 Property Tax Obligation (1%)	$	3,060

Note that some local agencies collect other kinds of governmental charges (for example, benefit assessments, fees for property-related services, etc.) on the property tax bill, which increases the total bill beyond what it would be if it were a bill for property taxes only.

How the Tax Revenues are Distributed

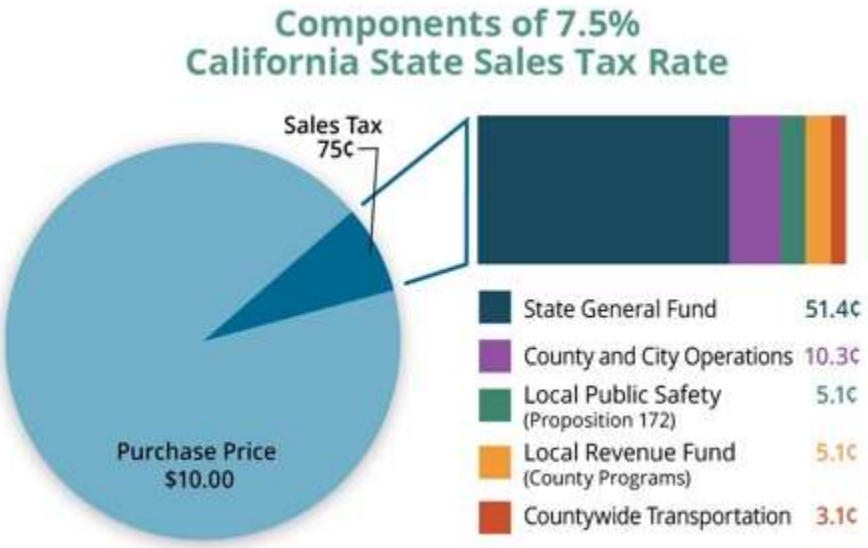
Counties distribute property taxes to the various "taxing entities" within the county according to California law. The "taxing entities" are the county, cities, special districts and school districts within the county.

The property tax revenues received by school districts are augmented by a taxing entity created by the Legislature called the "Educational Revenue Augmentation Fund" (sometimes referred to by the acronym ERAF). This fund receives a portion of the property tax that would otherwise be allocated to the county, the cities and the special districts. The amount deposited in the fund is a credit against the amount of funding the state otherwise provides to school districts within the county.[27]

Since 2004, California's Constitution has prohibited the Legislature from increasing the amount of property tax allocated from counties, cities and special districts to each county's Educational Revenue Augmentation Fund. California's Constitution requires a two-thirds vote of the Legislature to change the allocation of property tax among the county, cities and special districts within a county.[28]

Sales and Use Tax[29]

Consumers are familiar with the experience of going to a store, buying something, and then having an amount added for sales tax. The sales tax is actually imposed on retailers for the privilege of selling tangible personal property in California.[30] Services are exempt from the sales tax as well as certain items, like most groceries and medicine.[31] Retailers typically pass this tax along to the consumer. The sales tax is assessed as a percentage of the amount purchased.



Counties may impose a sales and use tax up to 1.25 percent.[33] For this reason, most residents pay a sales tax rate that is 8 percent or higher.[34] Cities may impose a sales and use tax at the rate of up to one percent.[35] Payment of the city sales tax is credited against payment of the county sales tax, which means a buyer does not have to pay twice for the local share – only once.[36] Cities keep all of the local sales tax collected within the city boundaries, counties keep the local sales tax collected outside city boundaries (known as the "incorporated area").

In addition to the base county or city sales and use tax rate, local voters may authorize additional "use" taxes. These measures add a certain amount – like a cent or fraction of a cent to the sales tax rate.[37] The combined rate of the additional taxes may not exceed two percent.[38]

Interesting to Know: Use Taxes

What is often called "sales tax" is actually the "sales and use tax." The "use tax" is imposed on purchasers whenever sales tax does not apply, such as for goods purchased out of state which will be used in California.[32]

Key Things to Know

- Cities and counties may impose business license taxes on persons or entities doing business within the city.[39] Voter approval is necessary to impose, increase or extend this tax.[40] Cities "extend" the business license when they impose it on a new type of business that did not previously pay the tax.[41]
- Cities and counties set their own business license tax rates.
- If a business operates in more than one city, a city may only tax that portion of the business's activities conducted within the city.[42]
- In most cases, business license taxes are not imposed for regulatory purposes (as the term "license" might imply) but to raise revenues for general municipal purposes. If a city does impose a fee to pay for the cost of regulating the business, the fee imposed to pay for the cost of regulation may not exceed the reasonable cost of regulating the business. For more about "regulatory fees," see page 15.

Business License Tax

Business license taxes are most commonly based on a business' overall revenues (a concept known as "gross receipts"). Taxes may be based on the quantity of goods produced, number of employees, number of vehicles, square footage of space occupied by the business or a combination of factors.[43]

Transient Occupancy Tax (TOT) or Hotel Bed Tax

Visitors to an area also pay local taxes. Such taxes help support public services and facilities that make an area a good destination for business or vacation travel.

A key form of visitor tax is called the transient occupancy tax (often known by the acronym "TOT") or hotel bed tax. Counties and cities may tax persons staying 30 days or less in hotels, motels and similar lodgings, including mobile homes.[44] Typically, the lodging provider collects the tax from guests and turns the funds over to the county or city.

Counties may charge transient occupancy taxes on individuals staying in hotels and other lodgings in the county area outside city limits, while cities charge the tax on individuals staying within city limits.[45]

Cities and counties may set their own transient occupancy tax rates. Voter approval is necessary to impose, increase or extend this tax.

Utility User Tax (UUT)

Counties may impose a utility user tax on the consumption of electricity, gas, water, sewer, telephone, telegraph and cable television services in county areas outside city boundaries.[46] Cities may impose a tax on the use of utilities such as gas, electricity, telephone, water and cable television.[47] Four counties (Alameda, Los Angeles, Sacramento and San Francisco) and 157 cities levy utility user taxes; most residents and businesses in the state pay utility user taxes.[48]

Utility companies usually collect utility user's taxes from their customers as part of their regular billing procedures. They send the funds collected to the city or county which imposed the tax.[49]

Cities and counties may set their own utility user tax rates. Voter approval is necessary to impose, extend or increase this tax.

Interesting to Know

Sales Tax for Public Safety

In 1993, the voters placed a one-half percent state sales tax in the California Constitution to be used only for local public safety activities.[50] Revenues from this part of the state sales tax are distributed to each county based on its proportionate share of statewide taxable sales.

In many counties, cities also receive a share of those funds. Their share is based on property tax losses resulting from the state's diversion of property taxes away from local government in the mid-1990s to satisfy the state's constitutional obligation to fund schools.[51]

Sales Tax and the Internet

California collects sales tax only on sales where the seller has a physical presence in the state. Internet sales are treated just like sales made at retail stores or by telephone or mail order. Many internet, telephone and mail-order sellers do not have such a presence.

If a business is located outside of California, sales to purchasers in California are subject to the state's use tax. While the customer is responsible for the use tax, the business must collect the use tax from the customer if the business has a permanent or temporary business location in California (such as a warehouse), or the business has any kind of representative in the state, even temporarily, who conducts sales, takes orders or makes deliveries.[52]

Parcel Tax

A parcel tax is a special tax on a parcel – or unit - of real property. Unlike the property tax, a parcel tax may not be based on the value of property. Instead, parcel taxes are generally based on a flat per-parcel rate and are imposed for any number of purposes, including funding police and fire services, neighborhood improvement and revitalization and open space protection.

Parcel taxes require two-thirds voter approval, even if they are imposed for general purposes.[53]

Documentary Transfer Tax

A documentary transfer tax is a tax imposed on the transfer of interests in real estate. Counties may tax at a rate of 55 cents per $500 of the property's value. Cities may impose the tax at up to one half of that amount, which is credited to the payment of the county tax.[54] Voter approval is necessary to impose, extend or increase this tax.[55]

Property Transfer Tax (Charter Cities)

Some charter cities have enacted a property transfer tax on the value of real estate that is sold. They set their own rates.[56] Majority voter approval is necessary to impose or increase this tax. For more information about charter cities, see www.cacities.org/chartercities.

Service Charges, Assessments, Fees and Bonds

Utility Rates

Utility rates are fees for utility services charged to users who pay for county or city-provided water, sewer, and electric or other utility services.[57] Utility rates cover some or all of the cost of providing the service, which may include operations, maintenance, overhead, capital improvements and debt service.[58]

Utility rates for water, sewer services and certain other utilities belong to a special category of fees called a "property-related fee."

A city or county must follow certain specific procedures to impose, extend or increase a property-related fee.[59] For example, majority property owner protest can defeat a proposal to increase a property-related fee.

Benefit Assessments

Assessments are charges on real property to pay for public facilities or services within an area which benefit either real property or businesses. A common type of assessment is one used to pay for landscaping and lighting in a neighborhood. The amount of the assessment must reflect the special benefit to the property that results from the improvements.[60] Assessments on property are typically collected through the owner's annual property tax bill.

A city or county must follow certain specific procedures to impose benefit assessments. For example, an assessment ballot process is required.[61]

User Fees

A city or county may impose fees, charges and rates for services and facilities it provides.[62] Examples include fees for checking plans for new construction or for recreation classes. The amount of a fee may not exceed the cost of providing the service or granting a benefit or privilege.[63] This cost may include overhead, capital improvements and debt service.[64] Indeed, federal grant rules require local agencies to allocate overhead and indirect costs to all their programs and services, so that federally funded programs do not pay more than their proportionate share of these costs.

Regulatory Fees

Regulatory fees pay for the cost of issuing licenses and permits, performing investigations, inspections and audits and the administrative enforcement of these activities. Examples include a fee to pay for the cost of processing pesticide license applications or a fee to inspect restaurants for health and safety compliance.[65]

Development Impact Fees

Development impact fees are imposed on new construction (like new houses, apartments, shopping centers or industrial plants). They pay for improvements and facilities required to serve new development and to reduce the impacts of new development on a community.[66]

Development impact fees (also known as "AB 1600 fees" after legislation adopted that govern such fees) pay for community amenities such as streets, sewers, parks and schools. They may not be used for day-to-day operating expenses.[67]

The ordinance or resolution establishing the fee must explain the connection between the development project and fee.[68] For example, a library impact fee must be connected to the demand for library services created by the construction of the development project.

The amount of the fee must not exceed the cost of providing the service or improvement that the fee pays for.[69]

Interesting to Know

Counties and cities issue debt to pay for facilities and equipment that require more funding than current revenues allow. Debt is issued in the form of a municipal bond that is paid off through taxes, assessments or fees.

For example, a city wants to build a performing arts center but does not have sufficient revenues to pay for the construction with existing cash. The city issues a revenue bond that is paid off with revenues from tickets sold at the performing arts center.

Or, a county wants to construct the extension of a street through an existing neighborhood but does not have sufficient revenues to pay for the construction with existing cash. The county issues an assessment bond that is paid off with revenues from benefit assessments paid by property owners whose properties benefit from the construction of the street.

A common and popular type of bond is the general obligation bond (used for the acquisition and improvement of real property). This type of bond is paid off through an increase in the property tax and requires two-thirds voter approval.[70]

Revenues from Other Government Agencies

Counties and cities also receive revenues from the state and federal government. For example, over half of county revenues statewide come from state and federal sources. This reflects the role of counties in implementing state policy and programs for health and human services.

Interesting to Know: Maintenance of Effort Requirements

When cities and counties receive funding for programs from the state or federal government, such funding may come with strings attached. A common condition is that the city or county commit to a certain level of funding. This commitment is called "maintenance of effort" or MOE. Realignment revenues, for example, come with maintenance of effort requirement.[71] (See page 19.)

Gas Tax

The state imposes a 39.5-cent per gallon tax on gasoline (the federal government taxes gasoline, too). These funds are apportioned to cities and counties, primarily on the basis of their populations. Local gas tax revenues must be spent on research, planning, construction, improvement and maintenance of public streets, highways and mass transit.[72]

Motor Vehicle License Fee

The Motor Vehicle License Fee (sometimes referred to by the acronym "VLF" for "vehicle license fee") is a tax on ownership of a registered vehicle. All revenue from vehicle license fees must be distributed to counties and cities.[73] Counties receive a portion of the vehicle license fee to fund certain health and social service programs that were realigned to counties in 1991. The remaining vehicle license fee revenues fund public safety programs as defined in California's constitution (county health and welfare programs, criminal justice programs, etc.).[74]

Subventions

Subventions are a type of financial support provided by one level of government to another. For example, the state levies certain taxes that it provides to counties and cities such as the gas tax. Most subventions are restricted to particular areas (for example, fuel tax revenue can only be used for streets and transportation).

One specific subvention is the payment the state must make to reimburse local agencies for their costs to implement a state-mandated new program or higher level of service in an existing program. The Commission on State Mandates determines the level of reimbursement in response to a claim for reimbursement filed by a local agency.[75]

Local agencies also receive reimbursement for revenue lost as a result of various tax exemptions and reductions. An example includes the homeowners' property tax exemption, which eliminates the property tax on a small portion of the assessed valuation of owner- occupied residential property.[76]

Federal and State Grants to Counties

Federal and state grants comprise a large proportion of county revenues. These funds are largely restricted to particular uses. Examples include specific human services, such as grants for health, mental health, social and child welfare services and related administration. Grants typically do not pay for the full cost of a program; recipient agencies typically pay a share of these costs with funding from local sources.[77]

Interesting to Know

About Grant Funding

- **Categorical grants** support a defined program area. Categorical grants typically go to local agencies that either meet predetermined funding criteria or compete for project funding through an application process.

- **Block grants** provide funding to a broad functional area. For example, the federal Community Development Block Grant (sometimes referred to by its acronym "CDBG") funds support local housing and economic development activities.[78]

State and Federal Mandates

State and federal laws sometimes direct counties and cities to provide new programs or higher level of services. The legal requirement, or "mandate," to provide these programs or services does not always come with adequate state or federal funding to support it. State legislative requirements to provide programs or services without such support are called "unfunded mandates." Federal mandates do not require reimbursement.

California's constitution prohibits unfunded mandates. The Constitution requires the Legislature to suspend state mandates in any year in which full funding is not provided.

Counties and cities may file claims for reimbursement of certain state mandated costs. However, the process typically takes several years. During that time, cities and counties are spending money to comply with the mandate.[79]

Realignment Allocations of Sales Tax and Motor Vehicle License Fee

"Realignment" refers to transferring state programs to local agencies to administer programs with more flexibility closer to the program participants.

In 1991, California enacted a major realignment of health and social service programs (and some juvenile justice, trial courts and mental health services) and funding responsibilities. A portion of the state sales tax and a portion of the vehicle license fee are dedicated to funding the 1991 realigned programs. The state only funds part of the programs' cost; counties must provide a share of funding.[80]

California enacted a second major realignment of state programs to the local level in 2011. Responsibility for certain lower level felons from shifted from the state to counties. This second phase of realignment is funded by an increase in the state sales tax, which was approved by voters through Proposition 30 in 2012, and by a portion of the vehicle license fee that had not been previously dedicated to the first phase of realignment.

Rent for Use of Public Property Including Streets

Rents, Royalties and Concessions

Another way cities and counties pay for public services is to charge rent for use of the public's property. An example is royalties from natural resources taken from land the public owns. Others include selling advertisements in publications or on buses, as well as, receiving a percentage of net profits from concessionaires operating on public property.[81]

Franchise Fees

Another revenue source is "franchise fees." Franchise fees are a form of rent for use of public streets and roadways.[82] Examples of businesses that pay franchise fees include trash collectors, cable television companies, electric utilities and oil and natural gas pipeline companies. Federal and state law limits the amount of some franchise fees (for example, video and cable television franchise fees).[83] Franchise fees for provision of video services (like television programming) are overseen by the state.[84]

Fines, Forfeitures and Penalties

Violations of the law often result in a fine of some kind.

Fines, forfeitures and penalties may be imposed for many reasons. Typical examples include traffic violations, court fines, penalties and interest on late or unpaid taxes.

- State law determines the distribution of fines and bail forfeitures imposed by the state.[85]
- State law apportions revenues for parking violations and surcharges between issuing agencies and the counties.[86]
- A city or county may impose fines, forfeitures and penalties for civil violation of local ordinances.
- Bail for local code violations charged criminally is established by the local courts with input from the city or county.

Other Revenues

Counties and cities earn interest on investments. California law specifies what kinds of investments are allowed.[87] Charter cities have more investment flexibility.

There are a number of other county and city revenues. One example is the sale of surplus property. These are a very small part of the revenue story for most cities and counties.

Public Involvement in the Revenue Process

Changes to taxes, fees and assessments must be adopted at a public meeting noticed in accordance with the requirements of California's open meeting laws. However, not all charges require a public hearing. When a public hearing is required, a local agency must publish a notice of the hearing a certain amount of days in advance and follow particular procedures at the hearing.

Type of Charge	Public Hearing[88]	Protest Procedure	Voter Approval
General Tax	No	No	Yes
Special Tax	No	No	Yes
Property Related Fee	Yes	Yes	Yes[89]
Benefit Assessment	Yes	Yes	Yes[90]
User Fees[91]	No	No	No
Development Impact Fee	No	No	No
Utility Rate[92]	No	No	No

Taxes

Voters have an important say on taxes. For "general taxes," majority voter approval is needed to impose, increase or extend a general tax.[93] A general tax is one which may be used for any lawful city or county public purpose.

"Special taxes" are those that fund a specific purpose or project. Two-thirds voter approval is needed to adopt, increase or extend a special tax.[94]

Assessments

"Assessments" are charges, based upon a special benefit to real property, for public facilities and improvements within a specific area (known as a "district"). Assessments are often collected as part of the property tax bill.

When a local agency considers an assessment, a majority of property owners may defeat the assessment in a public hearing procedure. If the process is not defeated in a public hearing procedure, then a majority of the property owners subject to the charge must approve the assessment by a mailed ballot. The property owners' votes are weighted according to how much their property will be charged.[95] This means those who would pay more have a bigger say in whether the assessment is approved because they will pay a larger portion of the assessment.

Property-Related Fees

Another kind of charge which requires public participation is known as "property-related fees."[96] These include user fees or charges for property-related services such as for water and sewer services

To impose a property-related fee, the agency must first hold a public hearing. At the hearing, a majority of affected property owners can prevent the fee's adoption by filing written protests.[97] A successful majority protest is rare because it is difficult to get a majority of property owners to participate in a protest proceeding.

If a majority of affected property owners do not protest the fee and the fee pays for sewer, water or refuse collection, then the fee is approved. An election is not required.

For other property-related fees, however, an election comes next. The agency imposing the fee has a choice between asking the voters generally to approve the fee or only the owners of the property who would pay the fee. If the agency asks the voters for their input, then approval of the fee requires a two-thirds vote. If the agency asks just the affected property owners to vote, then approval requires a majority vote.[98]

Other Revenues

Even when public hearings and voter approval are not required, other revenues such as planning permit application fees, parking meter rates, recreation facility use charges or fines and penalties, require appropriate notice and opportunity for public comment as outlined in California public meeting laws.

Resources for Further Information

Financial Management for Elected Officials, Institute for Local Government (www.ca-ilg.org/post/financialmanagement)

What Do Counties Do? California State Association of Counties (www.csac.counties.org/californias-counties)

Learn About Cities, League of California Cities (www.cacities.org/Resources/Learn-About-Cities)

California Local Government Finance Almanac:
Data, Statistics, Analyses on California City and County Finance (www.californiacityfinance.com)

Understanding California's Property Taxes, Legislative Analyst's Office (www.lao.ca.gov/laoapp/PubDetails.aspx?id=2670)

References and Resources

Note: Sections in the California Code are accessible at leginfo.legislature.ca.gov. Fair Political Practices Commission regulations are accessible at www.fppc.ca.gov/index.php?id=52. A source for case law information is www.findlaw.com/cacases/ (requires registration).

[1] *See* California Department of Finance, www.dof.ca.gov/research/demographic/reports/estimates/e-1/documents/E-1_2013_Internet_Version.xls.

[2] *See* Cal. Const. art. XI, § 1(a). *See also* Cal. Gov't Code § 23002 ("The several existing counties of the State and such other counties as are hereafter organized are legal subdivisions of the State."). *People ex rel. Younger v. County of El Dorado*, 5 Cal. 3d 480, 491, 96 Cal. Rptr. 557 (1971) (counties have also been declared public corporations or quasi-corporations).

[3] In addition to the differences between counties and cities, charter cities and general law cities may have a different mix of revenues as well. Charter cities have traditionally enjoyed slightly broader flexibility than general law cities.

[4] County of Los Angeles, *Annual Report 2006-2007*, 10 (ceo.lacounty.gov/pdf/Annl%20Rpt%2006-07.pdf)

[5] *See* State Controller's Office, *Cities Annual Report* and *Counties Annual Report* (2010-2011), www.sco.ca.gov/Files-ARD-Local/LocRep/1011cities.pdf.

[6] Michael Coleman, *A Primer of California City Finance, Western City* (March 2005) (www.californiacityfinance.com/FinancePrimer05.pdf).

[7] *See* State Controller's Office, *Cities Annual Report* and *Counties Annual Report* (2010-2011), www.sco.ca.gov/Files-ARD-Local/LocRep/counties_reports_1011counties.pdf.

[8] Cal. Const. art. XIIIA, section 1 as limited by art. XIIIA, section 25.5.

[9] Cal. Const. art. XIIIC section 1.

[10] Cal. Const. art. XIIIC, section 1(d).

[11] Ca. Const. Article XIIID, section 6.

[12] Cal. Govt. 29532, 29532.1; 23 U.S.C. 134. A metropolitan transportation organization is often the designated "transportation planning agency" in a region.

[13] Cal. Const. art XIIIC, section 1(e).

[14] A complete discussion of this list of seven exceptions can be found in the *Proposition 26 Implementation Guide* published by the League of California Cities in April 2011.

[15] *See generally* Cal. Const. arts. XIIIA, XIIIC and XIIID.

[16] Cal. Const. art. XIIIC, § 2(b).

[17] Cal. Gov't Code § 53724. Cal. Const. art XIIIC, section 2(b).

[18] *See* Cal. Const. art. XIIIC, § 1(d).

[19] Cal. Const. art. XIIIC, § 2(d).

[20] *Douglas Aircraft Co. v. Johnson*, 13 Cal. 2d 545, 550 (1939). *See* Cal. Const., art. XIII, § 1 and following, XIIIA; § 1 and following.

[21] Cal. Rev. & Tax. Code § 5301 and following.

[22] Cal. Const. art. XIIIA, § 1.

[23] Cal. Const. art. XIIIA, § 2.

[24] *Id.*

[25] Cal. Const. art. XIIIA, § 1(b).

[26] Cal. Const. art. XIIIA, § 2.

[27] Cal. Const. art. XVI, section 8.

[28] Cal. Const. art. XIII, section 25.5.

[29] *Tax Information for City and County Officials* (March 2011) published by the State Board of Equalization is a helpful source for the details of how the sales and use tax operates. (www.boe.ca.gov/pdf/pub28.pdf).

[30] Cal. Rev. & Tax. Code § 7202(h)(1).

[31] Cal. Rev. & Tax. Code § 6359; *see also* State Board of Equalization, *Tax Tips for Grocery Stores* (January 2007) (www.boe.ca.gov/pdf/pub31.pdf).

[32] Cal. Rev. & Tax. Code § 7202(h)(1).

[33] Cal. Rev. & Tax. Code § 7202(a).

[34] Information about tax rates by county and city can be found at (www.boe.ca.gov/cgi-bin-rates.cgi.)

[35] Cal. Rev. & Tax. Code § 7202(h)(1).

[36] Cal. Rev. & Tax. Code § 7202(h).

[37] State Board of Equalization, *Tax Information for City and County Officials* (May 2006) (www.boe.ca.gov/pdf/pub28.pdf)

[38] Cal. Rev. & Tax. Code § 7251.1.

[39] Cal. Gov't Code § 37101 (general law cities); Cal. Const. art. XI, § 5 (charter cities); Cal. Rev. & Tax section 7284 (counties); *See also* Cal. Bus. & Prof. Code §§ 16000 and following; *Cooper v. Michael***,** 257 Cal. App. 2d 176 (1967).

[40] Cal. Const. art. XIIIC, § 2(b).

[41] Non-profit corporations are exempt from county and city business license taxes. Cal. Const. art XIII, section 26. *See also* Cal. Rev. & Tax 7284.1

[42] The apportionment must be based on a measure which "fairly reflects that proportion of the taxed activity which is actually carried on within the taxing jurisdiction." *City of Los Angeles v. Shell Oil Co.*, 4 Cal. 3d 108, 124 (1971). The measure of the license fee must be based on events occurring wholly within the city (*for example,* gross receipts from intra-city sales or storage) or the ratio of in-city to out-of-city business activities. *General Motors Corp. v. City of Los Angeles*, 5 Cal. 3d 229, 242-43 (1971). *Accord City of San Jose v. Ruthroff & Englekirk Engineers, Inc.*, 131 Cal. App. 3d 462 (1982).

[43] League of California Cities, *Municipal Revenue Sources Handbook* (2001).

[44] *See* Cal. Rev. & Tax. Code §§ 7280 and following.

[45] *Id.*

[46] Cal. Rev. & Tax. Code § 7284.2.

[47] Charter cities may impose a utility users' tax under their home rule authority. *See* Cal. Const. art. XI, § 5. General law cities may levy any tax which may be levied by a charter city. Cal. Gov't Code § 37100.5; *Fenton v. City of Delano*, 162 Cal. App. 3d 400 (1984) (upholding general law city utility users tax). *See also* Michael Coleman, *Utility User Tax Facts* (rev. August 2013) (http://www.californiacityfinance.com/UUTfacts13.pdf).

[48] Michael Coleman, *Utility User Tax Facts* (rev. May 2006) (www.californiacityfinance.com/).

[49] An agency requiring another entity to collect its utility users' tax must compensate that entity for the cost of doing so. *See Edgemont Community Services District v. City of Moreno Valley*, 36 Cal. App. 4th 1157 (1995).

[50] Cal. Const. art. XIII, § 35.

[51] Cal. Gov't Code § 30054. *See* Michael Coleman, *Proposition 172 Facts: A Primer on the Public Safety Augmentation Fund* (October 2006) (www.californiacityfinance.com/).

[52] More information on the sales and use tax and the Internet can be found at www.boe.ca.gov/formspubs/pub109/.

[53] *See* Cal. Const. art. XIIID, §3.

[54] Cal. Rev. & Tax. Code § 11911(b).

[55] Note that the tax may not be increased beyond the statutory 55 cent rate. A newly-incorporated city is entitled to share in the proceeds of an existing documentary transfer tax without voter approval. *City of Cathedral City v. County of Riverside* 163 Cal.App.4th 960 (1985).

[56] *See for example Fielder v. City of Los Angeles*, 14 Cal. App. 4th 137 (1993).

[57] Cal. Const. art. XI, § 7 and art. XI, § 9; Cal. Health & Safety Code §§ 5471-5473; Cal. Gov't Code § 54344. *See*, generally, Cal. Const. art. XIIIC, section 1(e)(1) and (2).

[58] A fee may not exceed the estimated reasonable cost of providing the service or facility for which the fee is charged. A fee which does exceed such cost may be considered a special tax. *Carlsbad Municipal Water District v. QLC Corp.*, 2 Cal. App. 4th 479, 485 (1992); *City of Dublin v. County of Alameda*, 14 Cal. App. 4th 264, 281 (1993). *See* Cal. Gov't Code § 50076. In addition, fees,

charges and rates must be reasonable, fair and equitable in nature and proportionately representative of the costs incurred by the regulatory agency. *Associated Homebuilders of the Greater East Bay v. City of Livermore*, 56 Cal. 2d 847 (1961); *United Business Commission v. City of San Diego*, 91 Cal. App. 3d 156, 165 (1979). Utility rates for water and sewer services belong to a special category of fee called a "property-related fee." A city or county must follow certain procedures outlined in Article XIIID, section 6 of the California Constitution to impose, extend, or increase a property-related fee. Voter approval is required.

59 Cal. Const. art XIIID, section 6.

60 The key to an assessment is the requirement it be levied in proportion to the special benefits received from the improvements. *Anaheim Sugar Co. v. County of Orange*, 181 Cal. 212 (1919). A special assessment involves four features: (1) a special assessment is generally levied only upon land; (2) a special assessment typically is not a personal liability of the person assessed; (3) a special assessment is based wholly on special benefits received; and (4) a special assessment is specific both as to time and locality. *Northwestern Co. v. State Board of Equalization*, 73 Cal. App. 2d 548 (1946). Only special benefits are assessable and the city or county must separate the general benefits from the special benefits. The amount of the assessment may not exceed the reasonable cost of the proportional special benefit conferred.

61 Cal. Const. art XIIID, section 4.

62 A city or county has the authority to impose fees, charges and rates under its police power. Cal. Const. art. XI, § 7. Article XIIIC, section 1(d) makes a fee imposed to fund a program that mitigates the impacts of the fee payer's activities, a tax. For example, a city that wishes to charge plastic bag manufacturers a fee to fund a program to mitigate the impact of using plastic bags on fish and other wildlife must adopt a tax instead. However, an ordinance requiring retail grocery outlets to charge for the use of plastic bags has been preliminary upheld by the courts.

63 Cal. Const. Art XIIIC, section 1(e)(1) and (2).

64 In fixing the fee, it is proper and reasonable to take into account not only the expense merely of direct regulation, but all the incidental consequences that may be likely to subject the public to cost. *United Business Commission v. City of San Diego*, 91 Cal. App. 3d 156, 165 (1979) (quoting *County of Plumas v. Wheeler*, 149 Cal. 758 (1906)).

65 Cal. Const. art. XI, § 7. *County of Plumas v. Wheeler*, 149 Cal. 758 (1906) (A city or county has the authority to impose fees, charges and rates under its police power. As long as the local enactments are not in conflict with general laws, the power to impose valid regulatory fees is not dependent on any legislatively authorized taxing power, but exists pursuant to the direct grant of police power.) A regulatory fee that does not satisfy the requirements of Cal. Const. Art XIIIC, section 1(d)(3) is a tax.

66 Cal. Gov't Code § 66010.

67 Cal. Gov't Code §§ 66000-66025. The first several sections of this chapter of the Government Code are often referred to as "A.B. 1600" after the statute which first adopted them. Thus, development impact fees are sometimes called "A.B. 1600 fees."

68 Cal. Gov't Code § 66001.

69 Development fees must be adopted pursuant to Cal. Gov't Code §§ 66000 and following. They are intended to mitigate the impacts of development, and must not exceed the cost of providing the services or facilities necessitated by the development; proceeds from development fees must be spent on such services or facilities.

70 Voter approval of a general obligation bond is required by two different provisions of the California Constitution: Article XIIIA, section 1(b); and Article XVI, section 18 (referred to as the "debt limit").

71 California Constitution Article XIII, section 36(c)(8)

72 Cal. Const. art. XIX, § 1.

73 Cal. Const. art. XI, § 15.

74 California Constitution Article XIII, section 36(b)(1)(B).

75 Cal. Const. art. XIIIB, section 6; Cal. Gov't Code sections 17500 and following.

76 California Constitution Article XIII, section 25

[77] County of Los Angeles, *Annual Report 2006-2007*, 10 (ceo.lacounty.gov/pdf/Annl%20Rpt%2006-07.pdf)

[78] *See* 24 C.F.R. §§ 570 and following.

[79] Legislative Analyst's Office, *Improving the Mandate Process* (March 14, 2007).

[80] State Controller's Office, *Counties Annual Report* (2010-11) (www.sco.ca.gov/Files-ARD-Local/LocRep/counties_reports_1011counties.pdf)

[81] Cal. Const. art. XI, § 7 (giving cities and counties reasonable exercise of police power).

[82] *San Francisco Oakland Terminal Railways v. Alameda County*, 66 Cal. App. 77, 82, (1924).

[83] Cal. Pub. Util. Code §§ 5800 and following. *See California Municipal Law Handbook*, § 5.1.25 (2007).

[84] Cal. Pub. Util. Code §§ 5800 and following.

[85] *See generally* Cal. Penal Code §§ 1463, 1463.001, 1463.002. Counties receive the amount specified in Cal. Penal Code § 1463.002, with the remainder going solely to the city. *See* Cal. Penal Code § 1463.001(b)(3).

[86] *See* Cal. Veh. Code § 40200.3.

[87] Cal. Gov't Code §§ 53600 and following.

[88] All of these charges must be adopted at a public meeting noticed in accordance with the requirements of the Brown Act. However, not all of these charges require that a public hearing be held. When a public hearing is required, a local agency must publish a notice of the hearing a certain amount of days in advance of the hearing and follow particular procedures at the hearing.

[89] An election is not required for property-related fee for water, sewer, or refuse collection services.

[90] The "election" required for a benefit assessment is called a "mailed ballot proceeding" and is not technically an "election."

[91] As a general rule, a public hearing is not a prerequisite to adopting a user fee. However, it is advisable to consult the statutory authority for adopting a specific fee for requirements that might apply.

[92] Remember that water and sewer rates are "property-related fees."

[93] Cal. Const. art. XIIIC, § 2(b).

[94] Cal. Const. art. XIIIC, § 2(d).

[95] Cal. Const. art. XIIID, § 4.

[96] Proposition 218 creates a special sub-set of fees and charges. It does so by using the term fee or charge to mean a "levy . . . imposed on a parcel or upon a person as an incident of property ownership . . . for property-related service." *See* Cal. Const. art. XIIID, § 2(e). The California Supreme Court has construed this term narrowly to include only fees which cannot be avoided other than by selling property (*See Apartment Association of Los Angeles County, Inc. v. City of Los Angeles*, 24 Cal. 4th 830 (2001)) and water, sewer and some solid waste service fees (*Bighorn-Desert View Water Agency v. Verjil*, 39 Cal. 4th. 205 (2006).

[97] Cal. Const. art. XIIID, § 6(a).

[98] Fees which are imposed as an incident of property ownership or property related service (except for sewer, water and refuse collection services) require a majority vote of property owners or, at the public agency's option, a two-thirds vote of the general electorate. Cal. Const. art. XIIID, § 6(c).