

# Update on the Law of Public Revenues

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# MICHAEL G. COLANTUONO

Colantuono & Levin, PC

11364 Pleasant Valley Road

Penn Valley, CA 95946-9000

(213) 542-5737

(530) 432-7357

(530) 432-7356 (fax)

[MColantuono@CLLAW.US](mailto:MColantuono@CLLAW.US)

# MICHAEL G. COLANTUONO

[WWW.CLLAW.US](http://WWW.CLLAW.US)

Twitter: @MColantuono

LinkedIn: Michael G. Colantuono

# Taxes

- Many proposals to amend Prop. 13 to allow some or all special taxes on 55% rather than 2/3 vote
  - ACA 3 police and fire services and facilities, SCA 4 & 8 transportation, SCA 7 libraries, SCA 9 economic development, SCA 11 for all special taxes
  - SCA 7, 9, and 11 passed committee, pending in Senate Appropriations as of 2/16/14

# Utility Users Taxes

- *McWilliams v. Long Beach* (Cal. S. Ct. 2013)
  - Gov't Claims Act preempts local claiming ordinances
  - Legislative fix possible

# Utility Users Taxes (Cont.)

- *Sipple v. City of Hayward & 134 other UUT Agencies*
  - AT&T / New Cingular Wireless settled consumer class action in Illinois, agreeing to refund taxes on wireless packages that included internet due to preemption by Internet Tax Freedom Act of 2009
  - AT&T sued all California UUT; lost on standing and claiming compliance
  - Fully briefed 12/11/13

# Utility Users Taxes (Cont.)

- *J2 Global Communications, Inc. v. City of LA* (2013) 2<sup>nd</sup> DCA
  - E-fax service is not “internet access” for purposes of tax exemption required by the federal Internet Tax Freedom Act (ITFA)

# Utility Users Taxes (cont.)

- Wireless Tax Fairness Act of 2013
  - 5-year Bar on New or Amended Cell Taxes above 1%
  - HR 2309 (Lofgren, D-San Jose) (219 co-sponsors); S 1235 (Wyden, D-OR) (16 co-sponsors)
  - Exempt taxes “imposed and actually enforced on mobile services ... prior to the date of enactment of this Act.”
  - Exempt “a local jurisdiction tax that may not be imposed without voter approval, provides for at least 90 days’ prior notice to mobile service providers, and is required by law to be collected from mobile service customers.”



# Utility Users Taxes (Cont.)

- S. 31 (Ayotte, R-NH), S. 1431 (Wyden, D-OR), HR 434 (Chabot, R-OH)
  - Internet Tax Freedom Forever Act
  - Would extend indefinitely current internet tax ban which expires 11/1/14
  - 1, 29 and 0 co-sponsors as of 2/15/14
  - Pending in Senate Finance Committee and House Judiciary Reg. Reform Subcomm.

# Utility Users Taxes (Cont.)

- A.B. 300 (Perea, D-Fresno)
  - Would have provided for collection of State & local telephony taxes on calling cards and other prepaid services at point of sale
  - Distributed by SBE
  - Preempts local taxation authority
  - Vetoed at SBE's request
  - New proposal expected shortly

# Utility Users Taxes (Cont.)

- AB 792 (Mullin, D-So. SF)
  - Mandatory exemption for local UUT of power generated by “clean energy resource .... for the use of a single customer or the customer’s tenants.”
  - Includes solar, generators that run on renewable fuel, etc.
  - Effective 1/1/14 to 1/1/20

# Tax Elections

- *Silicon Valley Taxpayers' Assn. v. Garner* (2013) 216 CA4th 402 (6<sup>th</sup> DCA)
  - Prop. 218 requires general taxes to be on general election ballots when council or board seats are contested absent unanimous vote to declare fiscal emergency
  - This case holds both primary and runoff elections are “general” elections even if all races resolved in primary.

# Property Tax Administration Fees

- *Alhambra v. LA County* (2012) 55 C.4<sup>th</sup> 707
  - Counties overcharged cities for PTAF wrt VLF Swap and Triple Flip
- *Clovis et al. v. County of Fresno* (2014) 222 CA4th 1469
  - interest on PTAF and other tax- and fee refunds
  - 7% / 10% until 12/31/13; T-Bill rate and T-Bill rate plus 2% thereafter

# RDA Pass-Throughs

- *LAUSD v. County of LA* (2013) 217 CA4th 597 (2<sup>nd</sup> DCA)
  - VLF Swap & Triple Flip reduce ERAF payments to schools but do not reduce property tax base on which RDA pass-throughs are calculated
  - First case citing & applying *Alhambra* PTAF case

# Property Tax

- *Cal STRS v. Co. of Los Angeles* (2013) 216 Cal.App.4<sup>th</sup> 41
  - STRS had standing to challenge possessory interest tax on its tenant b/c STRS paid it
  - No duty to pay under protest
  - Less deference to agency interpretation of statute than regulation

# Property Tax

- *Netjets Aviation, Inc. v. Guillory* (2012) 207 CA4th 26 (4<sup>th</sup> DCA)
  - Possessory interest tax on fractionally owned aircraft complies with Commerce Clause but may not be applied retroactively



# Property Tax

- *William Jefferson & Co., Inc. v. Board of Assessments & Appeals No. 3* (2012) 695 F.3d 960 (9<sup>th</sup> Cir.)
  - Co. Counsel representation of assessor & appeals board didn't violate federal due process b/c ethical wall was sufficient
  - *Sabey v. Pomona* (2012) 215 CA4th 489 does not allow this as to partners in private firm; might be vitiated by *Today's Fresh Start v. LA Co. Office of Ed.* (2013) 57 Cal.4<sup>th</sup> 197

# Property Tax

- *Western States Petroleum Assn. v. SBE* (2012) 57 C.4<sup>th</sup> 401
  - New rule allowing separate assessment of land and fixtures for oil refineries did not violate Prop. 13, but rule-making failed to comply with economic impact analysis requirement of APA, so rule invalid

# Property Tax

- *Duea v. County of San Diego* (2012) 204 CA4th 691 (4<sup>th</sup> DCA)
  - Taxpayer sued to challenge County refusal to transfer base year value, claiming he sold under threat of condemnation
  - Failed to exhaust administrative remedies by alleging before County appeal board that buyer was agent of County of San Diego and its RDA

# Property Tax

- *Holland v. Assessment Appeals Board No. 1* (2014) 58 Cal.4<sup>th</sup> 482
  - Statute authorizing reassessment of fractional share in coop mobilehome park on sale of a unit did not specify how that share is to be valued
  - Permissible to use sales price, less book value of mobilehome as value

# Property Tax

- *Benson v. Marin Co. Assessment Appeals Board* (2013) 219 CA4th 1445
  - Termination of family joint tenancy and creation of tenancy in common was “change of ownership” triggering reassessment

# Parcel Taxes

- *Borikas v. Alameda Unified Sch. Dist.* (2013)  
214 CA4th 135 (1<sup>st</sup> DCA)
  - Statute authorizing school parcel taxes requires uniform taxation — no distinction by land use
  - Many special districts have comparable statutes
  - Related to debate re split roll under Prop. 13
  - Legislative fix may be in the offing

# Mello-Roos Special Taxes

- *City of San Diego v. Shapiro, et al.* 4<sup>th</sup> DCA Case No. D063997
  - City imposed tax on hotels to fund convention center, allowed only hotel owners to vote
  - Trial court upheld special tax
  - Taxpayer advocates appealed, arguing for registered voter election
  - Fully briefed as of 1/8/14

# Income Taxes

- *Cutler v. FTB* (2012) 208 CA4th 1247 (2d DCA)
  - Deferral of income for sale of stock in corps. w/ CA assets and payroll, but not others violates commerce clause
  - FTB imposed remedy by disallowing deduction for others
  - Public outcry led to legislative fix



# Payroll Taxes

- *Coblentz Patch Duffy & Bass v. San Francisco*, 1<sup>st</sup> DCA No. A135509
  - SF Initiative treats partnership distributions as taxable “payroll”
  - Several lawsuits sued; most cases stayed
  - Lead case fully briefed as of February 2013

# Under-Collection of Bed Tax by Online Resellers

- Resellers are subject to bed tax as sellers of hotel nights
- Hotels pay tax on wholesale rent reseller pays hotel, reseller collects tax on retail rent from customer and pockets the difference
- Class action counsel unsuccessfully pursued this issue for LA, San Diego, Anaheim & W. Hollywood

# Under-Collection of Bed Tax by Online Resellers

- Options for Cities & Counties
  - Let the money go
  - Seek voter approval of an amended ordinance
  - Enforce your existing ordinance provisions requiring disclosure to hotel guest of tax paid
- *Hotels.Com, L.P. v. San Francisco*, Case No. CGC-13-535277
- San Diego litigation, too

# Sales & Use Taxes

- S 1364 (Wyden, D-OR); HR 3724 (Lamar Smith, R-TX)
  - Digital Goods and Services Tax Fairness Act of 2013
  - Facilitates collection of sales taxes on internet transactions but limits collection to a single, uniform tax
  - 3 & 8 cosponsors as of 2/15/14, pending in Senate Finance & House Judiciary Committees

# Sales & Use Taxes

- Marketplace Fairness Act, S 743 (Enzi, R-WY)
  - Passed Senate 69-27
  - internet retailers w/ sales >\$1m to collect sales & use taxes consistently w/ Streamlined Sales & Use Tax Agreement
  - HR 684 (Womack, R-AZ) is companion bill
  - Pending in House Committee
- AB 155 (Calderon, D-Whittier)
  - Adopted R&T 6203 to require web retailers grossing more than \$1m to collect sales & use taxes; effective 1/1/13

# Sales & Use Taxes

- *Palmdale v. SBE* (2012) 206 CA4th 329 (2d DCA)
  - 7 cities challenged SBE decision to allocate sales taxes to Pomona rather than county pool under “warehouse rule.”
  - 3 trial court writs against SBE resulted
  - DCA refused to vacate trial court ruling after settlement, publishing opinion to whack SBE

# Sales & Use Taxes

- *Loeffler v. Target Corp.*, Cal. S. Ct. Case No. S173972
  - Class action challenge to alleged misapplication of sales taxes
  - May shed light on scope of art. XIII, § 32 which limits tax refunds to those specifically authorized by statute
  - Argued 2/4/14; opinion due by May

# Sales & Use Taxes

- AB 576 (V.M. Perez, D-Indio)
  - Signed into law October 2013
  - 9 state agencies to collaborate to enforce sales and use taxes



# Tax Enforcement

- SB 211 (Hernandez, D-West Covina)
  - Eliminates sunset on enforcement collaboration between cities / counties and the FTB
  - Effective 1/1/14

# Prop. 218 & Annexation

## *Citizen's Ass'n of Sunset Beach v. Orange County LAFCO (4<sup>th</sup> DCA 2012)*

- Ass'n challenged LAFCO approval of island annexation for lack of election to approve extension of Huntington Beach's taxes into annexation area
  - Citing Prop. 13 precedent, Court found no election required
  - Supreme Court denied review

# Interest on Tax Judgments

- AB 748 (Eggman, D-Stockton)
  - Lowers interest rate on judgments against local governments from 7% to T-bill rate pre-judgment and T-bill plus 2% post-judgment
  - Sought by local govts for many years
  - Effective 1/1/14
  - *Clovis v. Fresno* found no retroactivity

# Groundwater Extraction Charges

- *Pajaro Valley Water Mgmt. Agency v. AmRhein* (6<sup>th</sup> DCA 2007)
  - Groundwater augmentation / extraction charges are property related fees subject to Prop. 218

# Groundwater Extraction Charges

- *Griffith v. Pajaro Water Mgmt. Agency* (2013)  
220 CA4th 586 (6<sup>th</sup> DCA)
  - Charge is a fee for “water service” exempt from 13D, 6(c) election requirement
  - Omnibus Act’s definitions are good authority notwithstanding *HJTA v. Salinas*
  - Notice of protest hearing can be given to property owners alone

# Groundwater Extraction Charges

- *Griffith* (continued)
  - Debt service, GA&O, service planning all permissible uses of fee
  - AWWA M-1 Manual's cost-accounting process complies w/ Prop. 218
  - Parcel-by-parcel cost analysis is not required; class-by-class is okay provided the classes are rationally drawn

# Groundwater Extraction Charges

- *Cerritos, Downey & Signal Hill v. Water Replenishment District of So. Cal.* LA Superior Court Case No. BS128136
  - Trial court invalidated WRD's charges for non-compliance w/ 218 in 2011; appeal likely when remedies resolved
- *Ventura v. United Water Conservation Dist.*, 2<sup>nd</sup> DCA No. B251810
  - Trial court found Prop. 218 violation and awarded \$1.3m refund, appeal and cross-appeal filed; briefing underway

# Groundwater Extraction Charges

- *Great Oaks Water Company v. Santa Clara Valley Water District*, 6<sup>th</sup> DCA Case No. H035885
  - Revisits *AmRhein v. Pajaro* and application of 218
  - Did SCVWD comply w/ 218?
  - Fully briefed 12/8/11



# Groundwater Extraction Charges

- *Water Replenishment District of So. Cal. v. Cerritos* (2013) 220 CA4th 1450 (2<sup>nd</sup> DCA)
  - “Pay first, litigate later” rule applies to local government
  - Remedy for illegal revenue measure is not full refund, but refund of difference between lawful charge and what was paid
  - Depublication request pending as of 2/15/14

# Water Fees

- *City of Palmdale v. Palmdale Water District* (2011) 198 CA4th 926 (2<sup>nd</sup> DCA)
  - City challenged conservation water rates, claiming Prop. 218 disallows them
  - DCA found 218 and Constitutional provision against wasting water could be harmonized, but struck down PWD rates as insufficiently justified
  - Caution required when constructing conservation rates

# Water Fees

- *Brooktrails Township CSD v. Board of Supervisors* (2013) 218 CA4th 195 (1<sup>st</sup> DCA)
  - Initiative requiring District to end policy of charging inactive accounts minimum monthly service charge was not a tax on other water customers requiring 2/3 voter approval
  - Later phase of fight in *Paland v. Brooktrails CSD* which found the policy not to violate Prop. 218
  - Prop. 26 not retroactive as to local governments

# Prop. 218 & Water Rates

- *Morgan v. Imperial Irr. Dist.* 2014 WL 410039 (4<sup>th</sup> DCA 1/17)
  - Farmers not entitled to separate rate protest
  - Applied deferential substantial evidence review to trial court rulings
  - Allowed secrecy of protests
  - Rates can be less than cost
  - Pet'n for review may be likely

# Initiatives & Water Rates

*Mission Springs Water District v. Verjil (2013)*  
218 CA4th 82

- Initiative to reduce water rates, bar increases for a year & limit future increases
  - Registrar certified petition & District filed decl. relief action to prevent election; trial court denied HJTA's demurrer & anti-SLAPP motion
  - SLAPP and decl. relief both OK
  - Initiative invalid b/c set rates too low

# Initiatives & Water Rates

- *Vagim et al. v. City of Fresno*, Fresno Superior Court Case No. CECG03206
  - City sought declaration relying on *Mission Springs*
  - Trial court granted writ ordered City to provide title & summary for rate repeal initiative
  - 5<sup>th</sup> DCA to hear argument in May 2014

# Sewer Fees & Equal Protection

- *Armour v. City of Indianapolis* (2012) 132 S. Ct. 2073
  - City mandated sewer connections and allowed owners to pay up front or over 30 years
  - Then cancelled program without refund to those who paid up front
  - USSC found rational basis in administrative need to terminate all districts without tail liability; Scalia forceful dissent

# Sewer Fees

- AB 2567 (Carter, D-Rialto)
  - Amended GC 53756 to add “wastewater” and “wastewater treatment” effective 1/1/13
  - Allows rates under Prop. 218 to include inflation-adjustment mechanisms until sooner of:
    - 5 years
    - Increase beyond the inflation-adjusted rate



# Solid Waste Fees

*Torres v. Arakelian Enterprises*, 2<sup>nd</sup> DCA Case No. B246515

- Trial court invalidated award of exclusive franchise for failure to comply with Prop. 218 in setting rates
  - Residential fee collected by city
  - Opening brief on appeal due February 2014

# Solid Waste Fees

- SB 713 (Wolk, D-Davis)
  - Prevents enforcement of solid waste franchise provisions requiring hauler to indemnify franchising city or county for violations of Prop. 218 with respect to rate-setting
  - Adopts Pub. Res. Code § 40059.2
  - Effective 7/1/12

# Solid Waste Fees

- *Chung v. City of Monterey Park* (2012) 210 CA4th 394
  - Ballot measure placed on ballot by City Council without initiative petition to require competitive procurement of trash franchises not subject to CEQA
  - Helpful discussion of CEQA exemption for government actions which raise money

# Development Impact Fees

- *Cresta Bella, LP v. Poway USD* (2013) 4<sup>th</sup> DCA
  - School impact fees may not be collected on gross area of new construction, but must net out prior construction on site demolished for the project

# Development Impact Fees

*CBIA v. City of San Jose*

Cal. S. Ct. Case No. S212072

- DCA held inclusionary housing fees benefit from rebuttable presumption they are reasonably related to City housing objectives
- Developer bears burden to provide otherwise
- Being briefed in 2/14

# Public Records Act Fees

- *Sierra Club v. Superior Court (County of Orange)* (2013) 57 C.4<sup>th</sup> 157
  - County could not impose fee for use of its GIS system because products of that system constitute public records subject to disclosure at cost under Public Records Act

# Property Related Fees

- SB 553 (Yee, D-SF)
  - Fee elections (such as flood control fees) require 2/3-voter or majority property owner approval
  - Sets standards for property owner elections similar to those for assessments
    - “OFFICIAL BALLOT ENCLOSED” on envelope
    - Tabulation in public
    - Ballots secret till tallied
  - Effective 7/1/14

# PILOTs on Affordable Housing

- Some County Assessors concluded that a City's PILOT agreement w/ affordable housing developer voided the welfare exemption from property tax
- SBE concluded otherwise in 12/13 opinion
- Legislation is likely and might prohibit PILOTs



# Prop. 26

*Griffith v. City of Santa Cruz* (2012) 207 CA4th 982

- Challenge to fee on landlords for housing code enforcement
  - No violation of equal protection, 218 or 13
  - Helpful discussion of burden of proof under 26, practical application of licensing exception, applies pre-26 regulatory fee case law

# Prop. 26 Litigation

- *Citizens for Fair REU Rates v. City of Redding* (3d DCA Case No. C071906)
  - Challenge to electric utility PILOT
  - City won on ground that 26 not retroactive; appeal fully briefed as of 8/13
- *Bauer v. Harris* (E.D. CA No. 11 CV 01440)
  - Challenge to gun registration fees under 2<sup>nd</sup> Amendment and Prop. 26; to be tried 3/24/15

# Prop. 26 Litigation (cont.)

- *Schmeer v. County of Los Angeles* (2013)  
213 CA4th 1310
  - Challenge to provision of plastic bag ban requiring retailers to charge \$0.10 for paper bags
  - Trial court concluded this was not a government fee subject to Prop. 26
  - Prop. 26 does not apply to fees not paid to govt.

# Obamacare is not a Tax

- *National Federation of Independent Business v. Sebelius* (2012) 132 S. Ct. 2566, 2594:
  - “the essential feature of any tax ... produces at least some revenue for the government.”
  - Will be useful in disputes like *Schmeer*.

## Prop. 26 Litigation (cont.)

- *Cal. Chamber of Commerce v. CARB*, Sacto. Superior No. 34-2012-80001313
  - Challenges AB 32 implementation under Prop. 13
  - Court ruled for State; appeal likely
- *Morning Star Packing Co. v. CARB*, Sacto, Superior No. 34-2012-80001464
  - Related to the Chamber case; same result

# Prop. 26 & State Fire Fee

- State imposed \$150 / structure fee on State Responsibility Areas
- HJTA challenged under Prop. 26 b/c not approved by 2/3 of each house
- *HJTA v. CDF*, Sacto Superior Case No. 34-2012-00133197
- Third amended complaint filed 1/24/14

# Prop. 26 Legislation

- AB 483 (Ting, D-SF)
  - Proposed by CA Travel Association to help defend tourism marketing district (TMD) assessments; also helpful for non-property BIDs
  - Incidental benefits to non-payors does not disqualify assessment under Prop. 26 provided they do not cost payors more
  - Effective 1/1/14, adds GC 53758

# Assessments

*Silicon Valley Taxpayer's Ass'n v. Sta. Clara Co. Open Space Auth.* (2008) 44 Cal.4<sup>th</sup> 431

- Independent judicial review of assessments
- Tighter definition of special benefit
- Open space and other services that benefit public broadly harder to justify
- Proportionality requirement unclear



# BID Assessments

## *Dahms v. Downtown Pomona PBID*

(2009) 174 CA4th 708 allows:

- exemption of residential pty from assessment for security, streetscape maintenance & marketing
- discounted assessments for non-profits
- use of front-street frontage for apportionment, along with lot & building size
- Very generous to agency; later cases less so

# Utility Undergrounding Assessments

*Tiburon v. Bonander* (2009) 180 CA4th 1057

- No general benefit for utility undergrounding
- Court can look outside agency's own record
- Invalidated allocation of assessment and establishment of zones of benefit

# Park Assessments

*Beutz v. Riverside Co.* (2010) 184 CA4th 1516

- Park M&O can be 100% assessment financed b/c capital provided w/ other \$
- Agency must always prove special benefit and proportional allocation even if challenger doesn't raise these points
- Questions use of cost to allocate benefit

# Fire Suppression Assessments

*Concerned Citizens v. West Point FPD*

Cal. S. Ct. Case No. S195152

- Sufficiency of engineer's report to show special benefit or proportionality
- Use of cost to allocate benefit
- Dismissed as moot and DCA opinion not republished

# Maintenance Assessments

- *Golden Hill Neighborhood Ass'n v. City of San Diego* (2011) 199 CA4th 416
  - Invalidated maintenance district under 1972 Lighting & Landscaping Act for inadequate engineer's report (no basis for allocation of votes to City property)
  - Helpfully limited DCA's *West Point* decision and provides guidance for engineers' reports

# PBIDs and BIDs

- Property based business improvement districts have engendered a fair amount of recent litigation
- A proposal to codify *Dahms* may result
- BID assessments have generated litigation under Prop. 26. Ontario prevailed on standing grounds and is on appeal; San Diego's litigation is ongoing.

# Advice re Assessments

- Use a strong, current engineer's report
- Get legal review of reports at least until assessment law stabilizes
- Watch for current developments

# Ballot Labels

*McDonough v. Superior Court*

(2012) 204 CA4th 1169

- Unions challenged ballot label for City of San Jose's pension reform measure
  - 6<sup>th</sup> DCA took emergency appeal, ordered Registrar to revise label
  - Deleted list of general fund services which might benefit from pension savings; changed “reform” to “modification.”



# Post-Redevelopment

- AB1x 26 & AB 1484
- Welter of lawsuits challenging AB 1484 and decisions on claw-backs, true ups, and State's "self-help" power
- A few challenges to AB1x 26 remain

# AB 1484 Litigation

- City suits disputing claw-backs, true-ups and ROPS denials
- Third-party suits to enforce RDA obligations
- Bond guarantor constitutional attack on AB1x26 & AB 1484

# Still More AB 1484 Litigation

- Constitutional Challenges to AB 1484
  - *Bellflower v. Matasantos*
    - Judge Kenny ruled for State; Cities appealed
  - *League of CA Cities v. Matasantos*
    - Judge Frawley ruled for LCC on Prop. 22; state appeal is expected

# Constitutional Challenges to AB 1484

- Theories of suit
  - Impairment of Contracts
  - Diversion of property tax violates Props. 13 & 22
  - Diversion of property and sales taxes violates Props. 1A & 22
  - Diversion violates charter city home rule power
  - Failure to repay utility fund loans violates Prop. 218
  - Separation of Powers; fair hearing; legislative process

# Tips re RDA Wind-Down

- Assert all claims on ROPS
- Meet & confer on rejected claims
  - Face to face is most effective
  - 5-day deadline to request
- New loans to SA are risky
  - DOF may disallow on ROPS
  - If so, payment is after finding of completion via HSC 34191.4

# Tips re RDA Wind-Down

- You will likely have to sue to fix errors
- Stay tuned, as this process is unfolding rapidly and DOF's procedures change daily

# Audits

- AB 941 (Rendon, D-So. Gate)
  - Independent JPAs must report audits to Controller
  - Controller may audit local governments if finds not complying w/ financial requirements of law, grants, local charter or ordinance
  - If misconduct found, local government pays for audit
  - Died in Assembly Appropriations 1/31/14

# Audits

- AB 1035 (Muratsuchi, D-Torrance)
  - Doubles fines for audit late for 2 years in a row, triples if late for 3 years
  - Controller may conduct audit at local expense after 3 years' delay
  - Hearing before Senate Government & Finance cancelled in June 2013



# Audits

- AB 1345 (Lara, D-Bell Gardens) effective 1/1/13
  - Audits due to SCO w/in 9 mos. of FY end
  - If late, SCO can hire auditor at local expense
  - SCO must report unprofessional conduct or multiple failures to comply w/ standards to Bd. of Accountancy
  - All audits to be performed by CPAs in good standing
  - 6 year limit on auditing relationships (post FY 12–13)

# Internal Controls

- AB 1248 (Cooley, D-Rancho Cordova)
  - Adopts GC 12422.5 to require State Controller to adopt model internal control guidelines “to assist a local agency ... in establishing a system of internal controls to safeguard asset and prevent and detect financial errors and fraud”
  - Must post to web by 1/1/15
  - Not legally binding, but may be politically so

# Financial Management Training

- AB 1235 (Gordon, D-Menlo Park)
  - AB 1234-style training requirement for local officials on financial management
    - Councilmembers, paid elected officials, staff designated by local policy
  - One training session per term of office and may be taken at home, in person or online
  - Providers must consult Treasurer & Controller
  - Vetoed

# Fiscal Ballot Measures

- *Owens v. Co. of Los Angeles* (2013) 220 CA4th 107
  - Post-election challenges to ballot materials disfavored and must show voters misled
  - Identifying benefited services did not make a special tax
  - Not misleading to call this a continuation and reduction of tax even though failure of measure would have ended tax

# Mandates

- *Dept. of Finance v. Comm'n on State Mandates*, Cal. S. Ct. Case No. S214855
  - LA Court of Appeal found that NPDES mandates are imposed under federal rather than state law, and thus were not reimbursable mandates
  - S. Ct. granted review, vacating that ruling
  - Opening brief to be due 3/31/14

# Litigation

- Reynolds v. Calistoga, 2014 WL 374143 (1<sup>st</sup> DCA 2/3)
  - Paying sales taxes in Napa County and holding lien on property in Calistoga did not confer taxpayer standing to challenge expenditure of special sales tax
  - Sales taxes are legally incident on seller, not buyer
  - Not yet final

# Questions?

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