

# FEES! You got 'em. How do they work today?



*Prepared for the League of CA Cities, September 2023*

*Moderator: Tim Seufert with Speakers: Christina Turner and Michael Colantuono*

# With FEES in CA, there is no perfect DEFINITION...

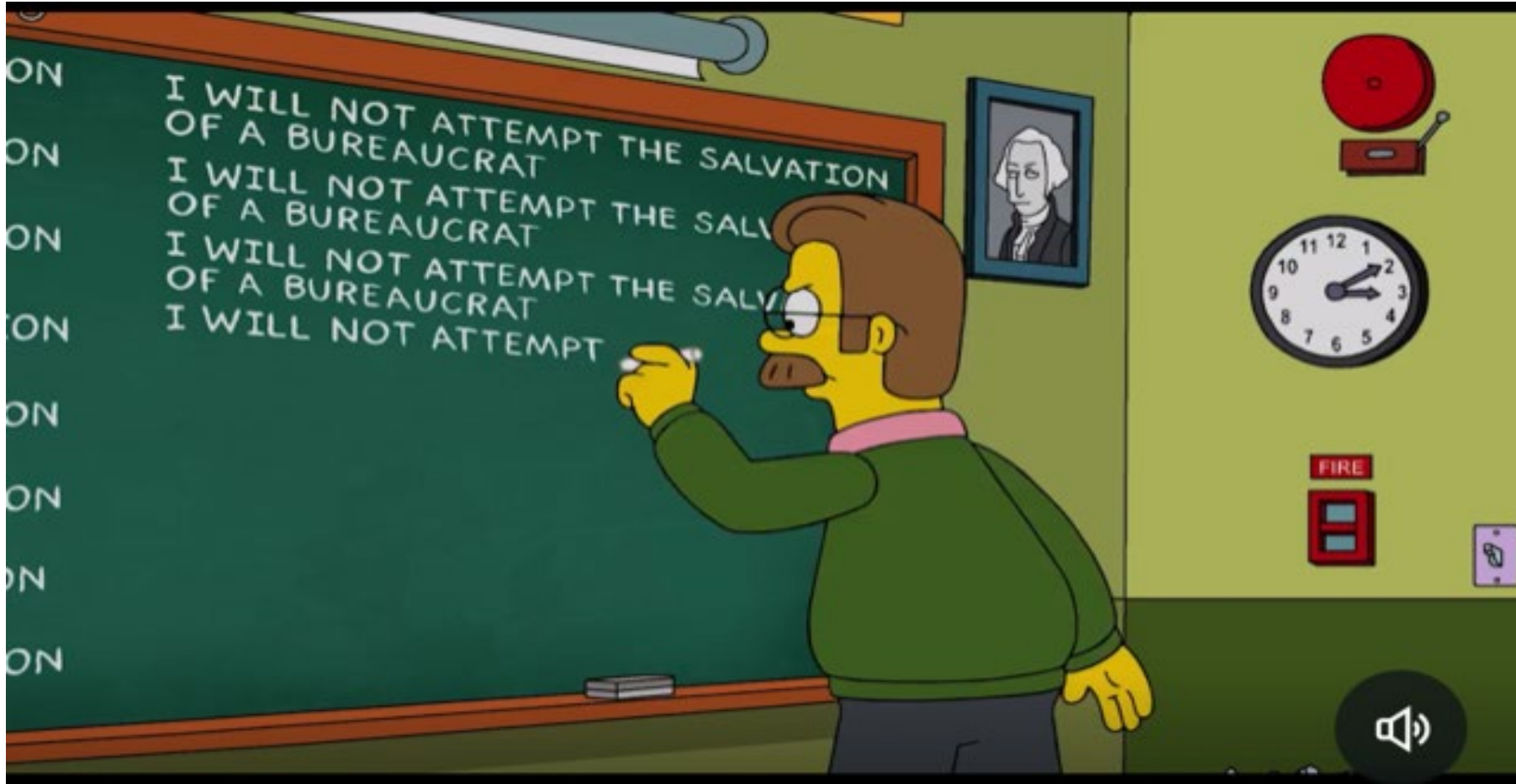
**Overview:** Fees comprise a broad category of locally-imposed revenues generally intended to recover all or a portion of the government's costs for:

- Providing a service
- Providing access to public property, or
- Mitigating the impacts of the fee payer's activities on the community

- **A fee may not exceed the 'reasonable cost' of providing the service or facility.**
- **Plus, a fee is not a Tax.**
- **A franchise fee is a charge that a franchisee is required to pay for rights given under a franchise agreement.**

*Text largely borrowed from The California Municipal Revenue Sources Handbook and Prop 26*

# With FEES, there is no perfect SALVATION...



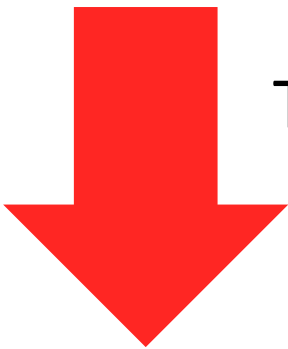
# Why the Obsession with FEES and other Revenues?



# Why the Obsession with Revenues?



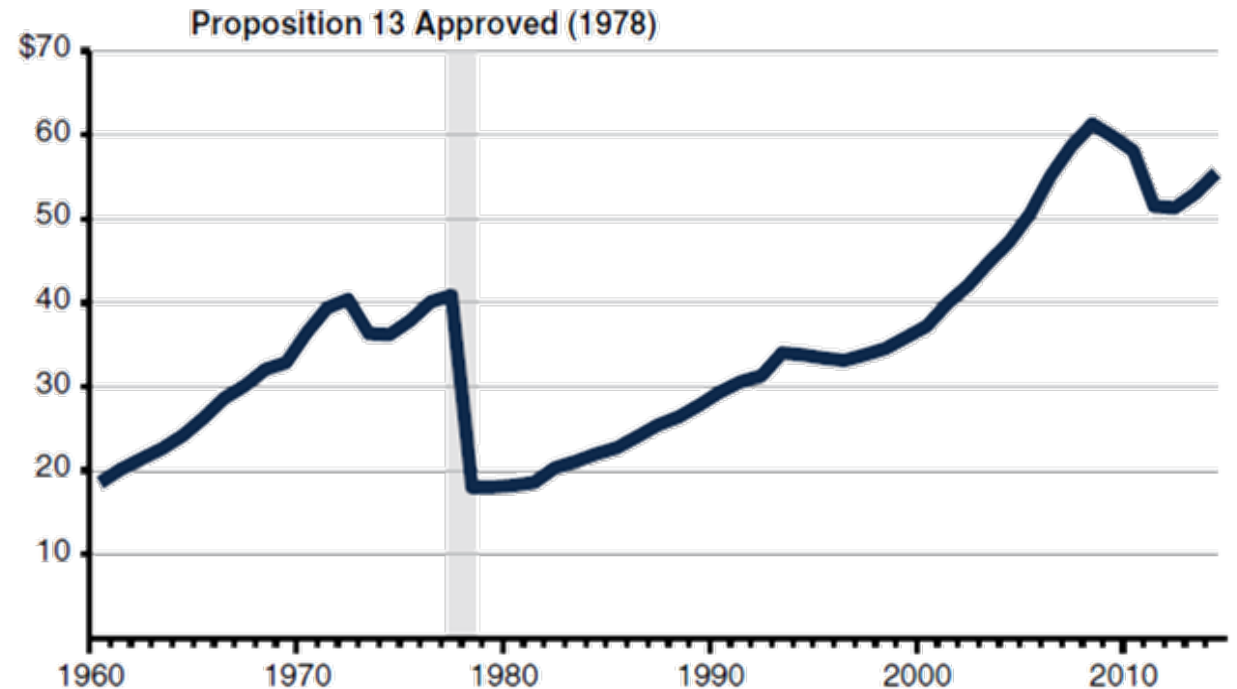
1977: > 90%



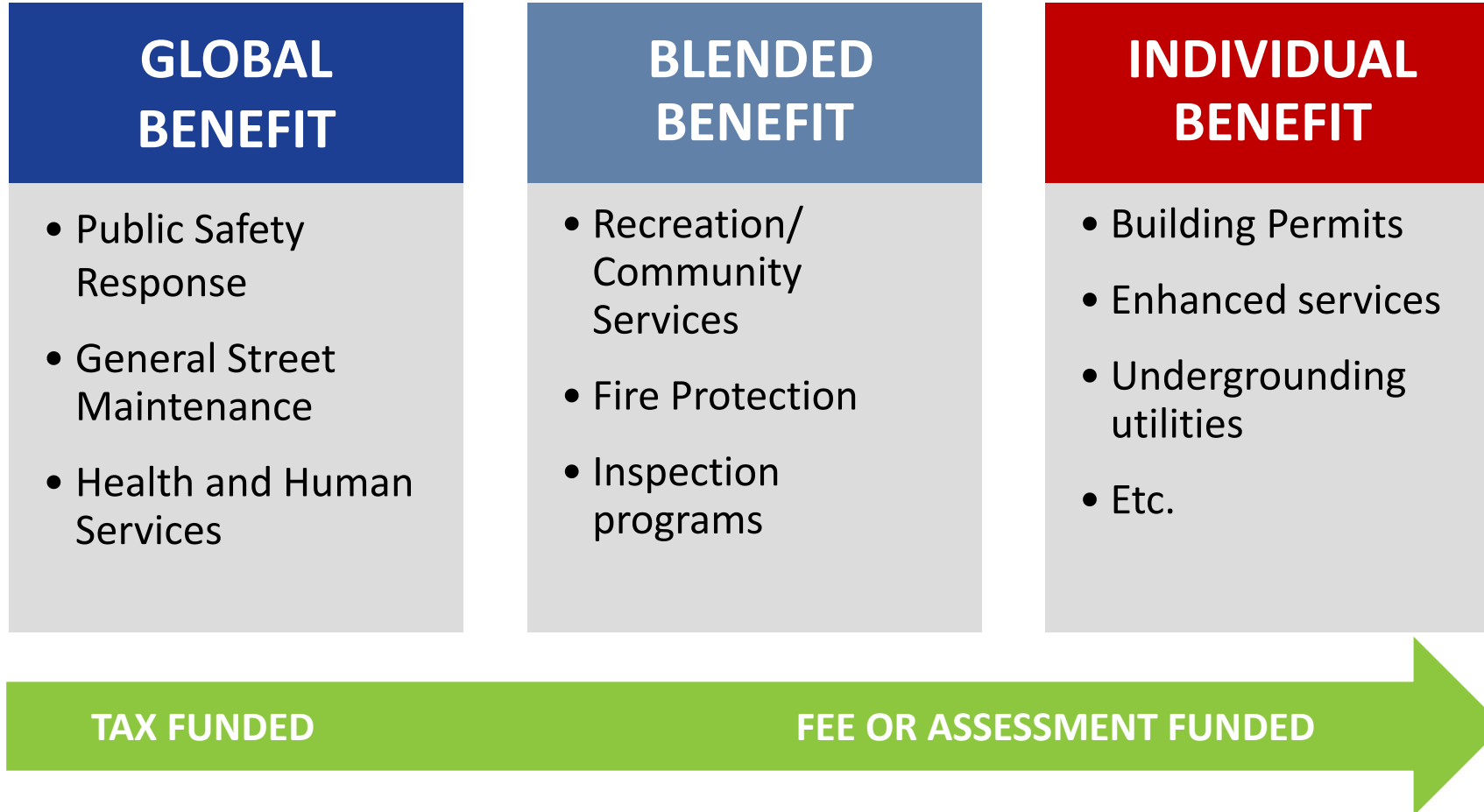
Today: < 66%

## Local Government Revenue Dropped Immediately After Proposition 13

Local Government Annual Property Tax Revenue (In Billions, 2014-15 Dollars)



# Context: Spectrum of Tax to Fee/Assessments...



# Typical Local Government Fees (excluding Franchise Fees)

## User/Regulatory Fees

Fees limited to recovering the cost of providing the service

- Example: Building Permits

## Entrance / Use Gov't. Property

The City can charge whatever price the market will pay (must be competitive)

- Example: Facility Rentals

## Fines and Penalties

Fines are not subject to cost recovery rules and may be set by Council

- Example: Library Fines

## Impact Fee (AB1600)

Separate legislative authority and process

- Example: Development Impact Fees/Quimby for Fire/Parks/Etc.

## Property-related Fees (Prop 218)

Water/Sewer/Trash plus other

- Example: Water/Sewer Rates or balloted Storm Drain Fee

# Example - Development Impact Fees

- One-time source of capital
- Consider nexus and defensibility
- Understand the context and fiscal and policy choices





# Common Property-Related Fees: Article XIII D, § 6



# The other Property-Related Fee *(not water, sewer, trash)*

## ANALYTICAL RIGOR

- Voluntary nature?
- Analytical analysis

## APPROVAL MECHANISM

- “Property-based fees” balloted to property owners (50%)
- Or registered voter election (2/3)

## SAMPLES

- Sacramento Storm drain fee
- CSA fees for roads, fire, etc.

# Taxpayer Protection and Government Accountability Act

## Sample provisions related to cities:


- Affirms 2/3 voter requirement for ALL special taxes/reverses Upland case ('initiatives')
- Specifies that all parcel taxes are special taxes
- Specifies that all taxes must be limited to specific purposes
- Requires a clear sunset provision for any revenue measures
- Forbids the Measure A/B approach (revenue plus advisory votes)
- Upholds property-based Business Improvement Districts (PBID and TBID)
- Recategorizes business-based BID charges from governing body approval to "voter" approval
- **States fees shall not exceed 'actual' costs vs. 'reasonable' cost currently**
- **Puts forth new standard of 'minimum amount necessary' for fees/rates**
- Targets VMT (Vehicle Mileage Traveled) and new development fees

# Let's Dig In!

The City Manager Perspective:  
Christina Turner

The Legal Perspectives:  
Michael Colantuono





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**Christina Turner**

September 20, 2023

# Fees and Charges

Any levy, charge or exaction of any kind imposed by a California government, is a tax except:

- **User Fees and Assessments:** for a privilege/benefit, service/product  
Planning permits, development fees, parking permits, user fees, copying fees, recreation classes, etc.
- **Regulatory Fees:** regulation, permits, inspections  
Permits for regulated commercial activities (e.g., dance hall, bingo, card room, check cashing, taxicab, peddlers, catering trucks, massage parlor, firearm dealers, etc.); fire, health, environmental, safety permits; police background checks; pet licenses; bicycle licenses.
- **Rents:** charge for entrance, use or rental of government property  
Facility/room rental fees, room rental fees, equipment rental fees, on and off-street parking, tolls, franchise, park entrance, museum admission, zoo admission, tipping fees, golf green fees, etc
- **Penalties** for illegal activity, fines and forfeitures, etc.  
Parking fines, late payment fees, interest charges and other charges for violation of the law.
- **A payment that is not *imposed*** by government  
Includes payments made pursuant to a voluntary contract or other agreement that are not otherwise “imposed” by a government’s power to coerce.

# Fee Setting

- **Fiscal Sustainability**
  - **Cost Recovery**
  - **General Fund Subsidy?**
    - **Example: Water heaters**
- **Political considerations**
- **Community benefit**



# Recreation Fees

- **Fee Schedules**
- **Community benefit**
  - **Example: Outdoor Sports Center**
    - **Third party operator**
    - **Cost Recovery**
    - **Maintenance and improvements**
- **Credit card fees**





# Water and Wastewater

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- **Enterprise Funds – operations and capital**
- **Proposition 218 process - majority protest**
  - **Example: Signature gathering**
- **Political? Defer the inevitable?**



# Garbage Rates

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- **In-house**
- **Third party franchise**
- **City Council sets fees**



# Assessment Districts

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- **Move maintenance costs outside City**
- **Established for improvements and maintenance**
- **Fee increases subject to maximum levy**
- **Balancing fees and service level**

# Concealed Carry Weapon Permit

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- **New state law**
- **Fee schedule**
- **Review process**
- **Comparability across agencies**

# Development Impact Fees

- Fees imposed on specific development projects to defray the cost of new or additional public facilities that are needed to serve those developments.
  - Include traffic facility mitigation fees, public safety facilities fees, park facility fees, sewer facility fees, library facility fees, among others.
- Comparability between agencies



# Take-Aways

- **Periodic fee reviews and studies are critical**
- **No one likes higher fees and/or rates!**
- **Advance public notice and education really help**