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OPINION	:	No. 79-623
of	:	October 4, 1979
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SUBJECT: PROPERTY TAX LIMITATION—The exception to the property tax limitation provided by section 1(b) of article XIIIA of the California Constitution applies to a portion of the territory of a reorganized or annexing school district.

The Honorable Wilson C. Riles, Superintendent of Public Instruction, has requested an opinion on the following question:

Does the exception to the property tax limitation provided by section 1(b) of article XIIIA of the California Constitution apply to that portion of the territory of a reorganized or annexing school district, the voters of which did not initially vote to authorize indebtedness incurred either by local school bonds or by state building aid apportionment loans?

CONCLUSION

The exception to the property tax limitation provided by section 1(b) of article XIIIA of the California Constitution applies to a portion of the territory of a reorganized or annexing school district, the voters of which did not initially vote to authorize the

indebtedness attributable to either (a) state school building aid apportionment loans from state school bonds provided such bonds were approved by the voters of the state prior to July 1,1978 or (b) local school bonds authorized for issuance prior to July 1, 1978, provided such bonded indebtedness was assumed by the voters of such territory in a bonded-indebtedness assumption election prior to July 1,1978.

ANALYSIS

We have been asked to consider two types of school district reorganizations, each involving two types of indebtedness, local school bonds and the state building aid loans (apportionments):

1. A reorganization whereby territory is transferred from a unified school district (District U) to adjacent elementary and high school districts (Districts E and H). The transferred territory contains both elementary and high schools, and is subject to bonded indebtedness of the former component elementary and high school districts included within District U incurred pursuant to elections in the appropriate districts prior to July 1, 1978. The component elementary district of District U of which the transferred territory is only a part, received a state school building aid apportionment loan which has not been repaid. The election for assumption of the bond indebtedness applicable to the transferred territory was held by Districts E and H after July 1,1978, and passed by the requisite margin.

2. A reorganization whereby two existing unified school districts (Districts U-1 and U-2) were combined into a new unified school district (District U-3) comprising the entire territory of Districts U-1 and U-2. District U-1 has an outstanding bond debt approved by the voters in that district prior to July 1, 1978. District U-2 has an outstanding loan from a state school building aid fund apportionment approved by the voters in that district prior to July 1, 1978. The election by the voters of District U-3 to assume the bonded indebtedness of District U-1 was held after July 1, 1978, and passed by the requisite margin.

The question presented in relation to these factual settings is whether the section 1(b) exemption to the tax limits of section 1(a) of article XIIIA[1] of the California

[1] Section 1 of article XIIIA of the California Constitution, adopted by the voters June 6, 1978, effective July 1, 1978 (Proposition 13) provides:

> "(a) The maximum amount of any ad valorem tax on real property shall not exceed one percent (1 %) of the full cash value of such property. The one percent (1 %) tax to be collected by the counties and apportioned according to law to the districts within the counties.
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> "(b) The limitation provided for in subdivision (a) shall not apply to ad valorem taxes or special assessments to pay the interest and redemption charges on any

Constitution applies so as to allow:

1. In the first situation, all the territory of Districts E and H to be subject to ad valorem taxes in excess of one percent (1 %) of the full cash value of such property to pay the interest and redemption of (a) the bonded indebtedness applicable to the transferred territory, and (b) the school building aid apportionment loan of the elementary school district component of the transferred territory.

2. In the second situation, (a) the territory of District U-2 to be subject to ad valorem taxes in excess of one percent (1 %) of the full cash value of such property to pay the interest and redemption of the bonded indebtedness of District U-1 and (b) the territory of District U-1 to be subject to ad valorem taxes in excess of one percent (1 %) of the full cash value of such property to pay the outstanding apportionment loan of District U-2.[2]

We shall first briefly examine the constitutional and statutory system for incurring bonded and state apportionment indebtedness by school districts, and the effect of territorial reorganizations on that indebtedness. Following that, we shall analyze the effect of article XIIIA on repayment of that indebtedness.

1. School District Indebtedness

Section 18 of article XVI of the California Constitution (formerly art. XI, § 18) provides in relevant part:

> No county, city, town, township, board of education, or school district, shall incur any indebtedness or liability in any manner or for any purpose exceeding in any year the income and revenue provided for such year, without the assent of two-thirds of qualified electors thereof, voting at an election to be held for that purpose, except that with respect to any such public entity which is authorized to incur indebtedness for public school purposes, any proposition for the incurrence of indebtedness in the form of general obligation bonds for the purpose of repairing, reconstructing or replacing public school buildings determined, in the manner prescribed by law, to be structurally unsafe for school use, shall be adopted upon the approval of a majority of the qualified electors of the public entity voting on

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indebtedness approved by the voters prior to the time this section becomes effective."

[2] We have not been asked and assume there is no question that in each case the burdened property, having been so burdened by a pre-July 1, 1978 election of the appropriate electorate is subject to the exemption of section 1(b) of article XIIIA irrespective of any later reorganization. As to the continuing liability of that property, see 51 Ops. Cal. Atty. Gen. 150 (1968).

the proposition at such election; . . . ."

Thus, the constitutional starting point is a requirement before incurring a long term debt, through bonds or otherwise, that a school district must receive the approval of the voters within the district.[3]

a. Local School Bonds

Chapter 2 of part 10 of the Education Code (§§ 15100–15235)[4] sets forth the authority of school districts to issue bonds. A prerequisite to such issuance is an election by the electors of the district. (§§ 15100, 15120–15126.)

The board of supervisors of the appropriate county then has the duty to annually levy a tax:

> " . . . upon the property in the district for the interest and redemption of all outstanding bonds of the district. The tax shall not be less than sufficient to pay the interest on the bonds as it becomes due and to provide a sinking fund . . . ." (§ 15250.)

Thus, after an election, all the territory of the district at the time of the election is subject to the tax to be levied to repay the local school bonds of that district.

In the first factual setting above, the transferred territory, being part of the component elementary and high school districts subject to bonded indebtedness, would thus be subject to such a tax levy, prior to reorganization. In the second setting, the territory comprising District U-1 would be subject to the levy.

b. State Apportionments

The Legislature has devised several statutory mechanisms for apportioning state school bond funds, that is, the proceeds from the sale of voter approved statewide bond issues, among the various school districts in the form of loans, primarily to provide aid for site acquisition and facility construction and reconstruction. This mechanism also provides

[3] We need not discuss in this opinion whether there are any exceptions to this rule. See, however, Education Code, section 39228; and compare *People v. Hanford High School Dist.* (1906) 148 Cal. 705 (election required to assume debt) with *People v. High School Dist.* (1923) 62 Cal. App. 67 (no election required if reorganization occurs by operation of law). See also 15 Ops. Cal. Atty. Gen. 175 (1950), 16 Ops. Cal. Atty. Gen. 134, 136 (1950)), and 29 Ops. Cal. Atty. Gen. 82 (1957).

[4] All unidentified section references are to the Education Code unless otherwise indicated.

for the repayment of loans by the school districts to the state. (See, e.g., ch. 5 (commencing with § 15500); ch. 6 (commencing with § 15700); ch. 8 (commencing with § 16000); and ch. 18 (commencing with § 17300) of part 10.)) The statute most frequently used, and the one we assume has been used in the factual situations discussed herein, is the State School Building Aid Law of 1952. (Ch. 8, §§ 16000–16386.) This act, as supplemented by regulations of the State Allocation Board (Cal. Admin. Code, tit. 2, §§ 1800 *et seq.*), sets forth the procedure and requirements for applications, allocation of funds and repayment of state apportionments. The actual funds apportioned are from a series of bond issues which were approved by the voters of the state, all prior to July 1, 1978. These bond acts then generally incorporate the apportionment mechanism of the 1952 act. (See, e.g., chs. 9–13, 15–17, 19–2 1 of pt. 10; see, e.g., State School Building Aid Bond Law of 1954, § 16513.) The bonds themselves, however, are general obligations of the State of California, and are to be repaid from the state general fund. (See, e.g., § 16504.)

For purposes of this opinion, the 1952 Act contains several pertinent provisions. The State Allocation Board may not approve an application of a school district for apportionment for an authorized purpose (§ 16014) unless the district has reached or will reach as part of the project 95 percent of its local bonding limit. (§ 16058.) The Allocation Board may also require that the district contribute towards the project, including the sale of local school district bonds. (§ 16058; Cal. Admin. Code, tit. 2, § 1830.)

No apportionment may be made to a district unless at an election called for the purpose:

> ". . . two-thirds of the qualified electors of the district voting thereat have authorized the governing board to accept, expend and repay as provided in this chapter an apportionment under the provisions thereof or, with respect to said agreement, to obligate the district in an amount equal to or in excess of the maximum amount which the district could be obligated by said agreement, or by any act of its governing board or for which it is responsible, contemplated or permitted thereby . . . ." (§ 16058.)

Once made, the district has a duty to repay the principal amount of the apportionment and accrued interest. (§ 16069.) The State Controller computes the amount of repayment due from the district each year (§ 16075) which amount is then deducted from the State School Fund allocation due to that district. (§ 16080.) The funds so deducted from the State School Fund are transferred to the State School Building Aid Fund (the source of the original apportionment (§ 16096)) for eventual transfer to the general fund. (§ 16080.) The county board of supervisors has a duty to levy a tax on the property within the district sufficient to raise for the district the amount of apportionment loan repayment withheld by the Controller. (§ 16090.) In simplified terms, apportionment funds are repaid indirectly by

property taxes raised in the burdened district.

In the first factual situation presented, the transferred territory, as property in the component elementary school district in District U, and the property in District U-2, are, prior to reorganization, subject to a property tax burden to repay the outstanding apportionment indebtedness incurred subsequent to a required election.

2. School District Reorganizations

Chapter 3 of part 21 (commencing with § 35500) of the Education Code contains numerous provisions relating to the mechanics of the formation and reorganization of school districts. Reorganization may take one of many forms, such as combination (§§ 35530–35532), consolidation (§§ 35540–35545), transfer of component districts (§§ 35550–35564), transfer of territory (§§ 3560–3578) or annexation (§§ 35760–35767). Many of these reorganization provisions also require an election in the affected districts as a prerequisite to reorganization. (See, e.g., § 35532 (combining districts); § 35541 (consolidation); § 35557 (transfer of component districts); § 35703 (transfer of territory); § 35767 (annexation).) Such elections only require approval by a majority of those voting, not two-thirds.

There is a general chapter containing requirements for and setting forth the effect of all reorganizations (ch. 1 of pt. 3, commencing with § 4000). Article 7 (§ 4120 *et seq.*) deals with the disposition of records, funds, property, and obligations when districts are reorganized, while article 8 (§§ 4140–4152) has special provisions for handling the bonded indebtedness of school districts on reorganization. The School Building Aid law of 1952 also has provisions relating to the responsibility for school apportionment repayments after school district reorganizations. (§§ 16159–16161.)

a. Bonded Indebtedness

The responsibility for bonded indebtedness of school districts on reorganization is governed by article 8. (§ 4140.) Several of these provisions are pertinent here. Section 4142 provides in part:

> "When any school district . . . is formed from any combination of whole districts or portions of districts, the district so formed shall be liable for the outstanding bonded indebtedness of the districts or portions of districts included in the new district. Where a portion of a district is included in a new district, the amount of the outstanding bonded indebtedness to be transferred to the new district shall be in the ratio which the total assessed valuation of the portion of the district bears to the total assessed valuation of

the whole district . . . ."[5]

Section 4144 provides:

> "When any school district . . , is in any manner merged with one or more school districts . . . so as to form a single district by any procedure, the district so formed is liable for all of the outstanding bonded indebtedness of the districts united or merged."

Sections 4146 and 4147 provide a mechanism for dividing responsibility for bonded indebtedness when a territory is taken from one district and annexed to another.[6] If the

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[5] Section 4142 also contains a provision allowing the county committee on school district organization or county board of education to formulate a different plan of division of bonded indebtedness than an assessed ratio basis. We have been provided with no indication that such a different plan is relevant to the factual situations presented.

[6] Section 4146 provides:

> "When territory is taken from one school district or community college district and annexed to another school district or community college district and the area transferred contains no public school property or buildings, the territory shall drop any liability for outstanding bonded indebtedness in the district of which it was formerly a part and shall automatically assume its proportionate share of the outstanding bonded indebtedness of the district of which it becomes a part."

Section 4147 provides:

> "When territory is taken from one district and annexed to or included in another district or a new district by any procedure and the area transferred contains public school buildings or property, the district to which the territory is annexed shall take possession of the building and equipment on the day when the annexation becomes effective for all purposes. The territory transferred shall cease to be liable for the bonded indebtedness of the district of which it was formerly a part and shall automatically assume its proportionate share of the outstanding bonded indebtedness of any district of which it becomes a part.
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> "The acquiring district shall pay the original district the greater of the amounts determined under provisions of subdivision (a) or (b).
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> "(a) The proportionate share of the outstanding bonded indebtedness of the original district, which proportionate share shall be in the ratio which the total assessed valuation of the transferring territory bears to the total assessed valuation of the original district in the year immediately preceding the date on which the annexation is effective for all purposes. This ratio shall be used each year until the bonded indebtedness for which the acquitting district is liable has been repaid.
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> "(b) That portion of the outstanding bonded indebtedness of the original district which was incurred for acquisition or improvement of school lots or buildings or

annexed territory contains no public school property or buildings, the territory is relieved of any liability for outstanding bonded indebtedness. (§ 4146.) If the annexed territory does contain school property or buildings, the acquiring district is required to pay the original district an annual amount which in effect equates to the acquired territory's proportionate share of the original district's bonded indebtedness. (§ 4147.) The county board of supervisors is directed to compute the property tax rate for the reorganized district to include sufficient money to make the section 4147 payments.

All of these provisions are subject to section 4152 which provides in part.

> "When the territory of a school district . . . is obligated to bonded indebtedness which has not been assumed by the district, an election may be held in the district to determine whether it shall assume the outstanding bonded indebtedness of any included districts or portions of districts . . . ."

This election must be approved by the majority required by section 18 of article XVI of the California Constitution. In an unpublished opinion (I.L. 71–226. Dec. 6, 1971), this office concluded that the provisions of section 4152 were mandatory before the bond-leveling provisions of sections 4142, 4144, 4146 and 4147 could be applied.

Applying these provisions to the factual situations presented, we conclude the outstanding indebtedness and liability would be redistributed as follows:

1. Under section 4147, the territory transferred from District U would be relieved of the bonded indebtedness of the former component elementary and high school districts of District U, but Districts E and H would be subject to property tax to make the section 4147 payments to District U.[7] The transferred territory would, with the assumption of the debt, be proportionately liable for any previous bonded indebtedness of Districts B and H.

2. District U-3, is responsible for the bonded indebtedness of District U-1, pursuant to either section 4142 or section 4144, and after the bonded indebtedness election, all the

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fixtures located therein and situated in the territory transferred.

"The county board of supervisors shall compute for the reorganized district an annual tax rate for bond interest and redemption which will include the bond interest and redemption on the outstanding bonded indebtedness specified in subdivision (a) or (b). The county board of supervisors shall also compute tax rates for the annual charge and use charge prescribed by former Sections 1822.2 and 1825 as they read on July 1, 1970. when such charges were established prior to November 23, 1970.

[7] The facts presented indicate that the transferred territory contains school property and buildings at both elementary and high school levels.

property in District U-3 would be liable to taxation to pay off that indebtedness.

b. School Building Aid Apportionments

Of the various provisions in the State School Building Aid Law of 1952, dealing with reorganization both before and after an apportionment is finally approved by the State Allocation Board, two sections are pertinent here. Section 16157 provides:

"Whenever, subsequent to the date on which a conditional apportionment made to a district becomes final, the state-aided district is included in whole in another district, the acquiring district shall, on the effective date of such inclusion, succeed to and be vested with all of the duties, powers, purposes, jurisdiction, and responsibilities of the state-aided district with respect to said apportionment and the property acquired or to be acquired from funds provided thereby, and all funds in the state school building fund of the state-aided district shall be transferred to the state school building fund of the acquiring district. All amounts which would, after the effective date of such inclusion, have been otherwise paid to the state-aided district under the terms of or pursuant to said apportionment, shall be paid to the acquiring district. *In addition, the acquiring district shall*, on the effective date of the inclusion of the state-aided district in the acquiring district as fixed by Section 4064, *become liable for the annual repayments and other payments due the state under Section 16075 and other provisions of this chapter with respect to said apportionment or the property acquired or to he acquired therewith."* (Emphasis added.)[8] This section would apply to the second factual situation presented, and under it, District U-3, the new district, would assume the entire obligation and be liable for the annual repayment of the outstanding state apportionment loan incurred by District U-2, and the property of the entire district, including District U-1 territory would be liable for the tax to be levied pursuant to section 16190. We are informed by representatives of the local assistance office of the Department of General Services, which assists the State Allocation Board, that upon a reorganization of the type contemplated herein, the amounts due to be repaid annually will be computed on the tax base of the former burdened district (District U-2) only, even if the entire new district (District U-3) is liable for the repayment. The practice of county tax collectors, however, is to spread the levy for the amount due over the entire new district (District U-3).

[8] A "state-aided district" is one that has received an apportionment under the School Building Aid Law of 1952. (§ 16150(a) (1).)

Section 16159[9] deals with the situation where part of a district is included in another

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[9] Section 16159 provides:

"Whenever, subsequent to the date on which a conditional apportionment made to a state-aided district becomes final, less than all of such district is included in another district, the Director of General Services shall determine what portion of such apportionment was expended or will be expended for property acquired or to be acquired by the acquiring district. Any determination made by the Director of General Services under this section may be redetermined by him, from time to time, until the project for which the apportionment was made has been completed, and the final cost thereof determined and the final determination has been made pursuant to such final cost. The Director of General Services shall promptly notify the State Controller, the governing board of the state-aided district and of the acquiring district, the superintendent of schools, the auditor and the treasurer of the counties having jurisdiction over said districts of each determination and redetermination made by him under this section. No redetermination shall be retroactive nor affect the liability of any school district for any payment or annual repayment, or portion thereof, previously made by or on behalf of such district to the state under the provisions of this chapter.

"On and after the date of such change of boundaries, the acquiring district succeeds to and is vested with all of the duties, powers, purposes, jurisdiction, and responsibilities of the state-aided district with respect to that portion of the apportionment which the Director of General Services has determined or redetermined under this section was expended, or will be expended, for property acquired or to be acquired by the acquiring district, and the unexpended part of such portion of the apportionment in the state school building fund of the state-aided district shall be transferred to the state school building fund of the acquiring district. In addition, and at the same time, the acquiring district shall become liable for the payment to the state of that portion of the annual repayment and all other payments due the state under Section 16075 and other provisions of this chapter with respect to that portion of the apportionment which the Director of General Services has determined or redetermined was expended, or will be expended for property acquired, or to be acquired by the acquiring district, or, in the event such portion of such apportionment is a lower percentage of such apportionment than the percentage that the assessed valuation in the territory of the state-aided district which was transferred to the acquiring district is of the total assessed valuation of the state-aided district immediately preceding the effective date of the transfer, the acquiring district shall become liable for the payment to the state of that portion of the annual repayment and all other repayments due the state under Section 16075 and other provisions of this chapter with respect to such apportionment which is equal to such percentage of assessed valuation in the territory transferred to the acquiring district. 'Annual repayment.' as used in this section, refers to repayment computed under Sections 16070 to 16075, inclusive, and excludes amounts for which the state-aided district is liable under the provisions of Section 16039. Whenever a site for which repayments are being made under Section 16039 is transferred to an acquiring district the acquiring district shall be liable for the

district, and for our purposes has two parts. First, the Director of General Services determines what portion of the apportionment was expended for property acquired by the acquiring district. Secondly, the acquiring district is then liable for the future annual repayments attributable to that portion of the outstanding apportionment so determined to have been expended on the property transferred, subject to various limitations contained in section 16159. Pursuant to that section, in the first factual situation presented, District E would be responsible for that portion of the outstanding apportionment which the Director of General Services determined was expended by District U or its predecessors in the transferred territory. Similarly, pursuant to section 16090, the board of supervisors would be obligated to levy a property tax on all the property in District E sufficient to offset the amount deducted by the Controller each year on account of the transferred liability for the school building apportionment loan.[10]

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repayments required under Section 16039.

"Notwithstanding the foregoing, the liability of the acquiring district for the repayment of any portion of the aforesaid apportionment made to the aforesaid state-aided district shall not exceed the product of the highest percentage referred to above (whether relating to assessed valuation or to the portion of the apportionment expended in the property acquired), multiplied by the balance due on the apportionment made to the state-aided district at the time of the withdrawal on the effective date specified in Section 4064 of the territory referred to. Such limited liability is hereinafter referred to as 'the maximum.' It is the intent of the Legislature that she maximum shall be applied by the Controller, both retroactively and prospectively, provided that as a result of such application (1) no cash refund shall be made to any district; (2) in the event any district has, in the past, paid an amount greater than the maximum, assuming this paragraph had been in effect at such time, the excess shall be credited by the Controller against any apportionment balances for which said district is or may hereafter become liable; and (3) the Controller shall make retroactively any adjustments in the amounts due from other districts by virtue of any adjustments made under (2) above. Notwithstanding the foregoing, any computations required to be made pursuant to this paragraph shall not be reflected in any changes in deductions required to be made pursuant to Section 16080 prior to January 1, 1966.

"If any subsection, clause, sentence or phrase of this section is for any reason held so be unconstitutional such decision shall not affect the validity of the remaining portions of this section. The Legislature hereby declares that it would have adopted this section and each subsection, sentence, clause or phrase thereof irrespective of the fact that any one or more subsections, clauses, sentences, or phrases be declared unconstitutional."

[10] There is no statutory requirement for a state apportionment indebtedness assumption election in the acquiring district or the non-burdened territory. We are informed that the uniform practice is not to hold such an election. A reorganization election pursuant to one of the provisions of chapter 3 of part 21 requires only a majority vote for approval. We express no opinion on the effect of California Constitution, article XVI, section 18 on the spreading of an apportionment

With that background, we next examine the effect, if any, of sections 1(a) and 1(b) of article XIIIA on the tax levies for purposes of repayment of bonded indebtedness and school building apportionments.

3. Effect of Article XIIIA

In simplified terms, the abstract legal question becomes, what electorate or group of voters must have approved an indebtedness of a school district prior to July 1, 1978, in order that the property tax limitations of section 1(a) of article XIIIA will not apply to specific property pursuant to the exemption of section 1(b). We conclude, based on our prior opinions, that the vote of the statewide electorate approving, prior to July 1, 1978, the various school bond issues administered through the School Building Aid Law of 1952 constitutes sufficient voter approval to make all property within a subsequently reorganized district liable for the property tax limitation exemption of sections 1(b) for purposes of repaying school building aid apportionment loans. In contrast, we conclude that only that property located in a district which held a local bond election or an assumption of bonded indebtedness election prior to July 1, 1978, is eligible for or subject to a property tax in excess of the one percent limitation contained in section 1(a).

At the outset, it should be noted that the Legislature considers property tax levies for the purpose of repayment of state apportionment loans to be indebtedness of the type which can qualify for the section 1(b) of article XIIIA exception. (Gov. Code, § 2691(b)(3); Rev. & Tax. Code, § 2237 (a); see *Amador Valley Joint Union High Sch. Dist. v. State Bd. of Equalization* (1978) 22 Cal. 3d 208, 247.)

This office has recently issued two opinions on the application of section 1(b) of article XIIIA to local property tax levies designed to provide revenue to repay general obligation bonds approved by state voters that are pertinent to the state apportionments question. The first of these, 61 Ops. Cal. Atty. Gen. 373 (1978) (No. CV 78–90) dealt with the effect of section 1(b) on property taxes levied by a local water district to raise revenues which would ultimately be used to repay state water bonds. The voters of the state in 1960 approved the issuance of state general obligation bonds (Burns-Porter Act bonds) to assist in the construction of the State Water Project. The bonds are backed by the full faith and credit of the state, but it was anticipated that revenue would be obtained from the sale of water and power from the project. Among other anticipated sources of revenue, are water and power sales contracts entered into between the state and local water districts. In turn, local water districts anticipate making contract payments either by the sale of water received or by district property tax levies. The question presented in Opinion CV 78–90, then was whether such property taxes by local water districts fall within the section 1(b)

indebtedness upon reorganization.

exemption from the one percent limit in article XIIIA. (61 Ops. Cal. Atty. Gen. at 375–376.)

We concluded, after a thorough analysis of the Burns-Porter Act and bond system, that although local water districts were obligated to attempt to meet their state water contract payments from water user charges, to the extent property taxes were allowed and necessary to meet such payments, local water district property taxes were within the section 1(b) exemption to the tax limitation. (*Id.* at 382.) The reasoning for this conclusion was as follows:

> "When the people of the state approved the Burns-Porter Act, they enacted into law a unified system of financing the water system, including authorization for both initial financing (the bonds) and payment of long-term debt and operational costs (the water contracts). The bonds, the mandate to enter into contracts, and the pledge of proceeds are part of the single and indivisible scheme the voters accepted. . . . In sum, the voters did not simply approve the $1.75 billion bond indebtedness; they also approved a contractual scheme to support the system and pay the indebtedness. Therefore dollars paid into the system are, for purposes of section 1(b), destined 'to pay' an 'indebtedness approved by the voters.'" (*Id.* at 379.)

In short, we concluded that there was a sufficient nexus between the payment of the voter approved obligations and the property taxes to be levied by the local water districts to qualify for the section 1(b) exemption under article XIIIA. The 1960 statewide election thus constituted sufficient pre-July 1, 1978 voter approval.

The second opinion, 62 Ops. Cal. Atty. Gen. 339 (June 1979) (Opinion No. CV 78–136) was concerned with the question of whether the obligation to repay state building aid apportionments made pursuant to the State School Building Aid and Earthquake Reconstruction and Replacement Bond law of 1972 is a debt approved by the voters prior to July 1, 1978 for purposes of section 1(b) of article XIIIA. Those apportionments were, of course, made pursuant to the School Building Aid Law of 1952. (§§ 16310–16350, 17412.) Thus, the question presented in Opinion CV 78–136 was a threshhold question to the apportionment question presented here, but did not deal with reorganized districts. In that opinion, we concluded:

> "The Building Aid Bond Laws are . . . an indebtedness approved by the voters prior to the effective date of article XIIIA, and the local taxes levied pursuant to section 16090 are used to pay the interest and redemption charges on the indebtedness. Thus, the local taxes have met the requirements of section 1, subdivision (b) of article XIIIA of the California Constitution

and fall within the exception provided therein." (62 Ops. Cal. Atty. Gen. at 343–344.)

We relied in that opinion on the reasoning of Opinion CV 78–90, and noted that " . . . both the Burns-Porter Act and the Building Aid Bond Laws were approved at statewide elections and this approval encompassed a system of indebtedness which included the levy of local property taxes to accomplish the purpose of repaying the principal and interest on the bonds." (*Id.* at 342.) [11] Thus, we had no hesitancy in concluding that "[d]espite this two-tiered aspect of the repayment system, there is a sufficient nexus between the local tax levy and the payment of the obligation pursuant to the Building Aid Bond Laws" (*id.* at 343), and that such repayment obligation is qualified for the section 1(b) of article XIIIA exemption.

The reasoning and analysis in those two opinions apply equally to the apportionment question presented in this opinion request. The State School Building Act Law of 1952 involves a statewide comprehensive system of using state voter approved bond proceeds to aid school districts in the acquisition and construction of school facilities, in full contemplation that the school districts would repay the apportionment loans by the mechanism of property tax levies. Indeed, the statute requires such a repayment mechanism. (§ 16090.) The voters were aware of this mechanism and system when they approved the bonds.

Since the elections and approvals were statewide, all school districts could be recipients of bond revenue from those issues approved by statewide elections, and we conclude they would be included in the term approved by the voters prior to the time [Section 1(b) of article XIIIA] becomes effective.' Thus, irrespective of any later reorganization, so long as the state bond issue to be administered through the State Building Aid Law of 1952 was approved by the state voters prior to July 1, 1978, whatever district has the obligation to repay an apportionment loan stemming from that bond issue may take advantage of the section 1(b) exemption and is not subject to the one percent limitation of section 1(a) or article XIIIA.

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[11] To that we would add that the Legislative Counsel's analysis on the state bond issue in question (State School Building Aid and Earthquake Reconstruction Replacement Bond Law of 1972; Proposition 2, Primary Election, June 1972) made it clear that although the bonds were general state obligation bonds, they were to be administered under the state's School Building Aid Law of 1952. and the apportionments were generally to be repaid by the districts ". . . through either or both local bond issues or increased local tax rates."

Applied to the factual situation presented, we reach the following result:

1. Elementary District E may levy a property tax in excess of the one percent limitation for purposes of obtaining monies to replace amounts deducted from that district's state school fund apportionment by the Controller (§ 16080) as the amount of annual repayment due on state building aid apportionment loans allocable to the transferred territory of District U.

2. Unified School District U-3 may levy a district wide property tax in excess of the one percent limitation for purposes of obtaining money to replace amounts withheld from that district's school fund apportionment by the Controller as the amount of annual repayments due on state building aid apportionment loans made to District U-2.

The question of local bonded indebtedness raises different problems. There we have no statewide election approving the incurring of a bonded indebtedness. Instead we have only the constitutionally mandated election within the territory of the school district incurring the obligation. In the case of reorganization we also have the assumption of bonded indebtedness election within the territory of the acquiring district. In Opinion CV 78–136, *supra* (61 Ops. Cal. Atty. Gen. at 342) we noted that section 1(b) of article XIIIA did not by its very language require that a qualifying pre-July 1, 1978 voter approval be by the voters of the particular district subject to the levy, but only that the indebtedness must be approved by the voters. 'We believe, however, that the fair import of article XIIIA leads to the conclusion that the qualifying election must have been by the electorate whose property will be subject to the over one percent limit allowed by the section 1(b) exemption of article XIIIA.

Article XIIIA was added to the Constitution by way of the initiative process and " . . . "'[the] power of initiative must be liberally construed . . . to promote the democratic process'" . . . ." (*Amador Valley Joint Union High School Dist. v. State Bd. of Equalization, supra,* 22 Cal. 3d at 2 19–220.) Although article XIIIA deals with more than property taxation, the ballot arguments to the people make it amply clear that property tax limitation was the primary objective of proposition 13. (Ballot Pamp., Proposed Amends to Cal. Const. with arguments to voters, Primary Election (June 6, 1978), p. 58.) As the Supreme Court said in *Amador Valley Union High Sch, Dist. v. State Bd. of Equalization, supra* (22 Cal. 3d at 230, 231) in discussing whether the various parts of article XIIIA constitute a single subject:

> ". . . . Our analysis of article XIIIA convinces us that the several elements of that article satisfy either standard in that they are both reasonably germane to, and functionally related in furtherance of, a common underlying purpose, namely, *effective real property tax relief.*

> "As previously noted, article XIIIA consists of four major elements, a real property tax rate limitation (§ 1), a real property *assessment* limitation (§ 2), a restriction on state taxes (§ 3), and a restriction on local taxes (§ 4). Although petitioners insist that these four features constitute *separate subjects, we find that each of them is reasonably interrelated and interdependent, forming an interlocking 'package' deemed necessary by the initiative's framers to assure effective real property tax relief.* Since the total real property tax is a function of both rate and assessment, sections 1 and 2 unite to assure that both variables in the property tax equation are subject to control. Moreover, since any tax savings resulting from the operation of sections 1 and 2 could be withdrawn or depleted by additional or increased state or local levies of other than property taxes, sections 3 and 4 combine to place restrictions upon the imposition of such taxes. Although sections 3 and 4 do not pertain solely to the matter of *property* taxation, both sections, in combination with sections 1 and 2, are reasonably germane, and functionally related, *to the general subject of property tax relief."* (Some emphasis added.)

This property tax relief measure, with one exception (§ 1(b)), places on absolute ceiling on the permissible property tax rate, and absolutely prohibits any new property taxes, even by the approval of two-thirds of the voters (§ 4) or the Legislature (§ 3). As we noted in 62 Ops. Cal. Atty. Gen. 209, 211 (1979) "[s]ubdivision [13(b) was intended to avoid the retroactive cancellation of voter approved obligations." (See also 61 Ops. Cal. Atty. Gen. 373, 377 (1978).) In the context of property tax relief, we believe the voter approval required for a section 1(b) exemption must have been by the electorate whose property might be subject to the property tax to repay the indebtedness. Thus, in the case of the water bonds (Opinion CV 78–90) or state school bonds (Opinion CV 78–136) the state-wide electorate approved the bonds with the knowledge that repayment might (and probably would) be by a property tax levy and that land in any water or school district could be liable for that property tax. In the case of local school bonds, we have two types of elections to consider. First, is the bond authorization election by the issuing district. The voters in that district knew that the bonds would be repaid by a property tax levy to which their property would be subject. Secondly, after reorganization, with the section 4152 bonded-indebtedness assumption election, the voters of the acquiring or new district knew that the existing bonded indebtedness of the acquired or absorbed territory would be repaid by a property tax levy to which their property would now be subject. Other than those elections, however, there would not have been any voter approval, and property outside the issuing district or acquiring or new district would not be liable for repayment of the bond indebtedness.

We thus conclude that in the case of local school bonds a section 1(b) of article XIIIA exemption would only be applicable to territory located within the district which held the qualifying election. If a bond issuing election was successfully held prior to July 1, 1978, all property in that district is liable for the indebtedness, and is eligible for or subject to the section 1(b) exemption. Similarly, if a bond indebtedness assumption election was successfully held prior to July 1, 1978, all property in the reorganized district is liable for the indebtedness and is thus eligible for and subject to the section 1(b) exemption. No other property would qualify, and therefore the one percent tax limitation of section 1(a) of article XIIIA would apply.

In the factual situations presented, the bonded indebtedness assumption elections took place after July 1, 1978. Therefore, the section 1(b) exemption would apply only to the territory within the issuing district, that is, the transferred territory from District U (to fund the § 4147 payments to District U) and the territory comprising District U-I. The exemption would not be available to the remaining territory of Districts E and H to repay the bonded indebtedness applicable to the territory transferred from District U, or to the territory comprising District U-2 to repay the bonded indebtedness incurred by District U-1.

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