

# The Impact of Fiscal Limits on Governance

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Governments have proven marvelously adaptive under fiscal constraints, finding new sources of revenues, elaborating new approaches to achieving their goals, and occasionally cutting activities and expenditures. What are the consequences of these adaptations for the governance capacity of our communities? Has the drive to solve fiscal pressures left government less capable to address future challenges? This essay examines the impact of fiscal constraints upon governance capacity, focusing on California experiences.<sup>1</sup> This is an early report on work in progress. Its empirical focus is California state and local governments. Cities transected by Interstate 10 (Santa Monica to Blythe) and Interstate 80 (San Francisco to Truckee), including forty-seven cities in existence since 1970, are chosen to illuminate the effects of competition and cooperation among proximate cities and of economic growth and decay channeled by major infrastructure. Such analysis will address: (1) creation of new governmental entities, such as Joint Powers Authorities; (2) civic infrastructure including civic associations, nonprofits, and neighborhood associations; and (3) evidence of political effects, including regime turnover among city councils and tenure of city managers.

Fiscal limits became most visible in the United States in the 1970s, most notably with the 1978 California voter passage of Proposition 13.<sup>2</sup> Many analysts of fiscal limits, especially those in Public Administration,

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1. See Jeffrey I. Chapman & John J. Kirlin, *Land Use Consequences of Proposition 13*, 53 S. CAL. L. REV. 95 (1979); see also Steven Sheffrin & Terri Sexton, *Equity and Efficiency in the California Tax System*, and John J. Kirlin et al., *Fiscal Reform in California*, in CALIFORNIA FISCAL REFORM: A PLAN FOR ACTION 26-37, 38-56 (California Business-Higher Education Forum ed., 1994). See generally JEFFREY I. CHAPMAN, PROPOSITION 13 AND LAND USE: A CASE STUDY OF FISCAL LIMITS IN CALIFORNIA (1981); JOHN J. KIRLIN, THE POLITICAL ECONOMY OF FISCAL LIMITS (1982); JOHN J. KIRLIN & ANNE M. KIRLIN, PUBLIC CHOICES-PRIVATE RESOURCES: FINANCING CAPITAL INFRASTRUCTURE FOR CALIFORNIA'S GROWTH THROUGH PUBLIC-PRIVATE BARGAINING (1982); DAVID O. SEARS & JACK CITRIN, TAX REVOLT: SOMETHING FOR NOTHING IN CALIFORNIA (1982).

2. CAL. CONST. art. XIII A.

have emphasized impacts on agencies, such as the attention given "cut-back" management<sup>3</sup> or upon programs.<sup>4</sup>

Another line of relevant Public Administration research has developed around the metaphor of a "hollow state," in which government manages networks of non-profits and private firms, instead of relying on public employees hierarchically organized in public bureaucracies, to deliver services.<sup>5</sup> The interaction of politics and fiscal affairs has been a focus of a loose international group of scholars, including mostly sociologists and political scientists.<sup>6</sup>

A larger, more diffuse issue raised is the impact of fiscal constraints upon governance of political systems. Governance capacity can be defined as the ability to make and effectuate collective choices for a geographically bounded grouping of humans, sustained over time.<sup>7</sup> The "geographical groupings" of particular interest here are sub-national, for most formal fiscal limits operate at the state and regional level.<sup>8</sup> The effects of such limits upon local governments and other institutions affected by state-level limits therefore provide the richest available experiences for analysis.

Governance capacity is more than the capacity of any single governmental agency or of any single government taken as a whole. It is shaped by: constitutional rules for formation and powers of local governments; the actual, typically multiple, governments affecting a specific area; significant public policies, such as the allocation of fiscal resources among governments; and the available civic infrastructure, including news media, civic associations, and neighborhood associations. Further, there is no well-established overall measure of governance capacity. Robert Putnam analyzed governmental capacity to act and Jeffrey Berry, Kent Portney and Ken Thomson analyzed citizens' competencies to participate effectively in governance of their communities.<sup>9</sup> Elements of civic infrastructure have

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3. See generally MANAGING FISCAL STRESS (Charles H. Levine ed., 1980); IRENE S. RUBIN, SHRINKING THE FEDERAL GOVERNMENT: THE EFFECT OF CUTBACKS ON FIVE FEDERAL AGENCIES (1985).

4. See generally RICHARD P. NATHAN ET AL., THE CONSEQUENCES OF CUTS (1983).

5. See, e.g., H. Brinton Milward, *Symposium on the Hollow State: Capacity, Control, and Performance in Interorganizational Settings*, 6 J. OF PUB. ADMIN. RES. & THEORY 193, 193-95 (1996).

6. The group has been stimulated and facilitated by Terry Clark. See Terry N. Clark, *Structural Realignments In American City Politics: Less Class, More Race, and a New Political Culture*, 31 URB. AFF. REV. 367 (1996). Emerging from this group are a number of comparative studies. See generally STRATEGIC CHANGES AND ORGANIZATIONAL REORIENTATIONS IN LOCAL GOVERNMENT: A CROSS-NATIONAL PERSPECTIVE (Nahum Ben-Elia ed., 1996); LOCAL ECONOMIC DEVELOPMENT: INCENTIVES AND INTERNATIONAL TRENDS (Norman Walzer ed., 1995).

7. See John J. Kirlin, *The Big Questions of Public Administration in a Democracy*, 56 PUB. ADMIN. REV. 416, 417-20 (1996).

8. See generally Dean Stansel, *Taming Leviathan: Are Tax and Spending Limits the Answer?*, 213 POLICY ANALYSIS (Sept. 29, 1996) <<http://www.cato.org/pubs/pas/pa-213.html>>.

9. See ROBERT D. PUTNAM, MAKING DEMOCRACY WORK 63-82 (1993); JEFFREY M.

been advanced as critical to governance capacity by Peter Berger, Richard John Neuhaus, the National Civic League and Robert Putnam.<sup>10</sup> Finally, the transaction costs of reaching and implementing collective choices are a relevant consideration in governance capacity.<sup>11</sup> Where there is "good" governance, the results include a functioning political system with desired levels of citizenship and political accountability resulting in appropriate public policies, along with reduced transaction costs of economic activity<sup>12</sup> and increased individual opportunities for rewarding lives.

In California, total own-source revenues available to state and local governments approached \$120 billion annually in 1991-92.<sup>13</sup> Revenues have increased in real terms per capita since passage of the Jarvis-Gann Initiative in 1978, but the sources of revenues and their distribution among governments has been altered.<sup>14</sup> Governments have undeniably undertaken substantial adaptations in response to fiscal limits, with cities being especially innovative in developing new revenue sources and new ways to achieve their goals. Such successful fiscal adaptations may lead to the conclusion that fiscal limits had modest effect. This conclusion, however, ignores possible non-fiscal impacts.

Governance capacity changes over time and can be enhanced or weakened by public policy choices in a manner analogous to the interplay between institutions and organizations.<sup>15</sup> The total California state and local public fisc may indeed be as full as before fiscal limits, but the governance system of the state has been substantially altered, leaving it with reduced capacity to meet future challenges.

### Fiscal Limits

This analysis distinguishes four forms of fiscal limits, including reductions and limits in a specific revenue source, limits on total governmental revenues or expenditures, policy choices resulting in reduced fiscal resources, and rules for decision making that effectively raise the barrier for increased revenues or expenditures. California offers examples of all four. Proposition 13 reduced current property taxes and limited future in-

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BERRY, THE REBIRTH OF URBAN DEMOCRACY 166-280 (1993).

10. See PETER L. BERGER & RICHARD JOHN NEUHAUS, *TO EMPOWER PEOPLE: FROM STATE TO CIVIL SOCIETY* (Michael Novak ed., 2nd ed. 1996); PUTNAM, *supra* note 9, at 83-120, 163-185.

11. See generally DOUGLASS C. NORTH, *INSTITUTIONS, INSTITUTIONAL CHANGE AND ECONOMIC PERFORMANCE* (1990).

12. See, e.g., Hendrik Spruyt, *Institutional Selection in International Relations: State Anarchy as Order*, 48 INT'L. ORG. 527-57; WORLD BANK, *THE STATE IN A CHANGING WORLD: WORLD DEVELOPMENT REPORT, 1997* (1997).

13. See Kirlin et al., *Fiscal Reform in California*, *supra* note 1, at 46.

14. See *id.* at 43-46.

15. See generally NORTH, *supra* note 11. North defines institutions as rules shaping action, such as property rights, and argues that organizations both are constrained by these rules and seek to change them to their advantage.

creases.<sup>16</sup> Proposition 4 placed limits on governmental expenditures.<sup>17</sup> The permanent transfer of \$3.6 billion of property tax revenues away from counties, special districts, and cities to the State in the 1992-93 and 1993-94 legislative sessions reduced city, special district, and county fiscal resources.<sup>18</sup> Finally, Proposition 218 makes increasing revenues more difficult by requiring voter approval of a variety of taxes, fees and assessments previously requiring action only by the elected governing board.<sup>19</sup>

Fiscal limits are intended to reduce funds available to affected governments, but whether they do so and by how much is not clear. Even before passage of Proposition 13, the expansion of the finances available to all governments in the United States had slowed.<sup>20</sup> When adjusted for changes in population and prices, total revenues generated by California governments increased modestly. Own source revenues of all California governments increased by a total of 11.3 percent in real dollars per capita between 1977-78 and 1991-92, a compounded rate of 0.8 percent annually.<sup>21</sup> By contrast, Dean Stansel analyzed the expenditures and revenues of 18 states that had adopted tax and expenditure limitations (TEL) before 1986, measuring the change in their growth rates in the five years immediately preceding and immediately following adoption of the TEL versus the national average growth rates.<sup>22</sup> He found that the growth rates were reduced in the TEL states, from 7.1 percent (0.8 percent above the national average) before to 1.8 percent (2.9 percent below the national average) after TEL adoption.<sup>23</sup> Twenty-three states had binding TELs in 1994.<sup>24</sup>

At least twelve fiscal eras can be distinguished in California since the end of World War II, including two preceding Proposition 13, providing the context within which fiscal limits arose. Figure 1 presents these twelve eras, each defined by actions intended to address perceived problems of that period,<sup>25</sup> including major fiscal actions, typical state government actions, and typical local government actions.

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16. CAL. CONST. art. XIII A.

17. CAL. CONST. art. XIII B.

18. See CAL. LEGISLATIVE ANALYST'S OFFICE, PROPERTY TAXES: WHY SOME LOCAL GOVERNMENTS GET MORE THAN OTHERS 11 (1996).

19. An initiative constitutional amendment adopted by voters on November 5, 1996. Proposition 218 was entitled the "Voter Approval for Local Government Taxes. Limitations on Fees, Assessments and Charges." For an assessment of how Proposition 218 changes local government finances and governance, see CAL. LEGISLATIVE ANALYST'S OFFICE, UNDERSTANDING PROPOSITION 218 6-37 (1996).

20. See generally ANTHONY H. PASCAL ET AL., RAND CORPORATION, FISCAL CONTAINMENT OF LOCAL AND STATE GOVERNMENT (1979).

21. See Kirilin et al., *Fiscal Reform in California*, *supra* note 1, at 43.

22. See Stansel, *supra* note 8, at 7-8.

23. See *id.* at 9.

24. See *id.* at 7.

25. See Kirilin et al., *Fiscal Reform in California*, *supra* note 1, at 41-42.

**Figure 1. Fiscal Eras in California**

<i>Time Frame</i>	<i>Fiscal Era</i>	<i>Perceived Problem(s)</i>	<i>Major Fiscal Actions</i>
1945-1968	The "Golden Era"	Need to accommodate growth in population and economic activity	Expand governmental roles, revenues and expenditures
1968-1978	Pressures for Tax Relief Repelled by the State	Need to address unrest with property taxes as property prices escalate to 50 % above national average	Continued expansion of governments
1978	Proposition 13 (Jarvis-Gann Initiative)	Need to address electorate's frustration with inability of political system to control increased property tax burden	Pass Jarvis-Gann Initiative: property tax rate of 1 %; assessment base at 1975-76 values; limits change to 2 % year
1978-1979	"Bail-Out"	How to survive the first year under Proposition 13, which reduced property tax revenues nearly \$7 billion	SB 154, allocates remaining property tax and state aid in effort to provide 90 % funding to local governments
1979-1980	Regularizing Adjustments and Facing New Fiscal Constraints	How to stabilize state-local fiscal relations; pressure for additional fiscal limits seen in legislature and initiatives	Voters pass Proposition 4 (Gann limit on expenditures) and defeat Proposition 9; AB 8 enacted
1980-1982	Confronting Exhaustion of the State Surplus	State financial surplus exhausted	State-local fiscal relationships regularized in budget
1982-1988	Institutionalizing the "New Fiscal System"	How to finance activities historically supported by the (now constrained) public sector, especially during a recession; citizens' discontent about impacts of growth increasingly visible	Metropolitan county voters impose increased sales taxes for transportation system improvements (1984 =>); most growth limit initiatives lose, but growth dampened
1988	Schools Seek an Advantage	Advocates of K-12 education (primarily the California Teachers Association) seek to "lock in" funding	Proposition 98 passes by slim majority; guaranteeing K-12 a fixed share of state funding
1989-1990	General Purpose Governments "Rebalance" the Fiscal System	Proposition 98 allocation formulas will inexorably ratchet up expenditures on K-14, starving all other activities	Proposition 111 passes, increasing gasoline tax and modifying Proposition 98 allocation formulas
1990-1992	Budgeting by Initiative	Several interests who cannot get desired expenditures through the "ordinary" budget process turn to initiatives	Propositions 108, 116 and 117 pass, allocating resources to specific parks and recreation and transportation projects

1991-1993	State Protects its "Core" Activities	State is faced with severe shortfalls between revenues and expenditure demands; attacks on "special taxes" levied by local governments launched by advocates of fiscal limits	State's choices in its budget process dominate local government choices
1993	Permanent Increase in Sales Tax	"Temporary" sales tax for 1/2 cent about to expire at a time when public sector budgets faced shortfalls	Voters approve Proposition 172, making the increased sales tax permanent
1994-1996	Fiscal and Structural Reforms Proposed But No Action	State-local fiscal relationships not functional (e.g., encourage sales tax generating land uses; counties with few incentives to administer property tax well); Serrano compliance in jeopardy as property tax revenues rise to wealthy K-12 districts	Governor and LAO propose competing structural and fiscal reforms; Gann and Jarvis organizations push for actions that would further limit local government use of debt and fees and assessments
1996	Proposition 218 Passes	Proponents of fiscal limits believe provisions of Proposition 13 and Proposition 4 have been violated, especially by increased fees, taxes and assessments made by elected local officials	Voters approve Proposition 218, which requires (a) majority voter approval to increase general taxes and reiterates 2/3 voter approval rule for special taxes, (b) property owner approval of assessments fees and charges, and limits (c) assessments to the special benefit conferred and (d) fees and charges to actual costs, without any imposition resulting in transfer to general governmental purposes

Figure 1 indicates that the public sector fiscal system, an important component of governance of a community, is not a stable foundation upon which collective choices may be made, policies adopted and programs implemented. Changes occur frequently and in many arenas, with most eras characterized by changes made through the legislative process, but several major changes were made through initiatives. The resulting patterns illustrate Douglass North's argument that "organizations" or forces contending over fiscal resources, are constrained by, but also change, "institutions" or the constitutional menu of available governmental instruments and important fiscal powers of governments.<sup>26</sup>

Second, Figure 1 reveals efforts to maintain a "balanced" system at several points, suggesting that there are socially constructed limits within

26. See NORTH, *supra* note 11, at 73-82.

which fiscal and other policies are elaborated. When property tax burdens become onerous, Proposition 13 is enacted; when Jarvis-Gann reduces local government property tax revenues, the State uses its surplus funds to ease the cuts; when limits on traditional public sources of funds imperil financing of infrastructure and services needed to accommodate economic and population growth, new devices are created to meet these needs; when Proposition 98 gives K-12 an "excessive" advantage in budgetary allocations, Proposition 111 is passed to restore a better balance.

Third, Figure 1 shows that the state plays a dominant role in policy making. The State takes a lead in accommodating growth after World War II, providing major infrastructure projects and a legal framework conducive to local government activism. When it could not respond to dissatisfaction about rising property taxes, the state's paralysis fueled the dissatisfaction that resulted in passage of Proposition 13. When state revenues fell short of the expenditure demands of its "core" activities in the recession of the early 1990s, the state shifted property taxes from counties, cities and special districts to its purposes.

Fourth, while much more information is available about traditional governmental revenues and expenditures than about other activities to meet collective needs, such activities are evident and appear to be growing in importance. Foundation and other gifts to California non-profits are estimated to exceed \$1 billion annually, for example, equaling about one-third what the state expends on AFDC or somewhat less than one-half of what the state expends on SSI/SSP programs annually.<sup>27</sup>

A major feature of the adjustments made after the passage of Proposition 13 reduced funds available for infrastructure was to shift these obligations primarily to the private sector.<sup>28</sup> No compilation of the total funding involved is available, but several indirect measures suggest it was large. For example, the state no longer funds on and off ramps for freeway projects, making them the obligation of adjacent property owners and local governments. Also, the volume of Mello-Roos assessment-backed bonds, a common device used to fund infrastructure from future users of development, totaled \$4.4 billion over the 1982-1993 period. In addition, the South Coast Air Quality Management District shifted costs of moving commuters out of single person automobiles to private employers through Rule 15, which required employers of over 100 employees to reduce the numbers of employees arriving at work as single occupants in cars. The cost per firm was reported to be up to \$2 million annually;<sup>29</sup> confronting charges that its policy had driven employers out of the region, the SCAQMD eventually suspended this approach to improving air quality.

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27. See Kirlin et al., *Fiscal Reform in California*, *supra* note 1, at 40.

28. See JOHN J. KIRLIN & ANNE M. KIRLIN, *supra* note 1; Dean J. Misczynski, *The Fiscalization of Land Use*, in 3 CALIFORNIA POLICY CHOICES 73-106 (John J. Kirlin & Donald R. Winkler eds, 1986).

29. See *Hitting the Carpool Brakes*, WALL ST. J., January 12, 1994, at A10.

## Impacts on Governance Capacity

The impacts of fiscal limits upon governance can be divided into two categories, those *impacting governmental dynamics directly* and those *resulting indirectly from adaptations by governments to fiscal limits*. In both categories, the effects of fiscal limits are experienced by governments and also beyond governments.

### *Direct Impacts*

Three types of direct impacts are seen: (1) reduced revenues (or expenditures), (2) a political culture of fiscal constraint, seen in both citizens and politicians, and (3) greater restrictions upon future fiscal decisions by elected bodies and/or the electorate. As discussed above, there is general agreement that fiscal limits have reduced revenue growth, constraining governmental capacity to achieve objectives by direct expenditure.<sup>30</sup>

Citizen surveys in California reveal a political culture that strongly supports fiscal limits and, beyond just fiscal issues, includes a broad distrust of government.<sup>31</sup> A March 1994 telephone survey conducted by Rund's firm found 56 percent of respondents judging Proposition 13 to be a "good thing" as opposed to 24 percent judging it to have been a "bad thing."<sup>32</sup> Forty-eight percent of respondents wanted a government that does less and requires a lower level of taxes "for the future," while 41 percent favored a government that provides a higher level of services even if that means increased taxes.<sup>33</sup> Ninety percent of the respondents believed the state government wastes money, and 80 percent believed the same about local governments.<sup>34</sup> Seventy-two percent did not believe the state government could be trusted to do what is right and 58 percent similarly distrusted local governments.<sup>35</sup> Nearly three quarters wanted a change in "our whole form of government in California."<sup>36</sup>

These survey responses suggest deep dissatisfaction with government and a strong opinion that government wastes resources, attitudes which support fiscal limits even when the percentage willing to pay more taxes for increased services is nearly as large as the percentage hoping for reduced government and lowered taxes. The California responses reason-

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30. See generally *supra* text accompanying notes 8, 20.

31. See Jack Citrin, *The Public Landscape for Fiscal Reform in California*, and Charles F. Rund, *Survey of Public Opinion on Fiscal Reform in California*, in CALIFORNIA FISCAL REFORM: A PLAN FOR ACTION, *supra* note 1, at 57-63, 82-92.

32. See Rund, *supra* note 31, at 91 tbl.8.21.

33. See *id.* at 88 tbl.8.15.

34. See *id.* at 86.

35. See *id.*

36. *Id.* at 86-87 tbl.8.10.



bly parallel those elicited in national surveys.<sup>37</sup> And, fiscal limits are also supported by candidates and elected officials, few of whom advocate increased taxes. Indeed, in spring 1997 President Clinton and Congress negotiated a "balanced budget" in the spirit of fiscal constraint.

An important feature of many fiscal limits is constraint upon future fiscal choices. Dean Stansel advocates long term restrictions upon fiscal choices, identifying nine features of tax and expenditure limits which he believes will result in the most enduring constraints.<sup>38</sup> In California, advocates of fiscal limits have sought to further constrain state and local government, arguing that the state and local governments have "escaped from" the intended constraints of Proposition 13 and Proposition 4. In November 1996, voters approved Proposition 218, which such advocates drafted and qualified for the ballot, and which requires voter approval for most future local government revenue increases (taxes, fees and assessments) and ends some taxes and fees already adopted by city council or county board of supervisor action unless reauthorized by popular vote.<sup>39</sup>

In summary, the direct effects of fiscal limits include reductions in rates of growth in revenues, a constraining political culture, and rules imposing tighter constraint on fiscal choices. These are clearly "governance capacity" effects, where political culture and decision rules constrain future governmental choice. Advocates of fiscal constraint celebrate these results, arguing not only the advantages of less expensive government (more resources in the private sector and/or a presumption of less "intrusive" government) but also the importance of increased accountability of governmental officials to citizens to whom they must turn for approval of more governmental actions with fiscal consequences.<sup>40</sup>

Broadly understood, plebiscites are thus replacing representative government in California, especially for choices having large fiscal impact. This major governance capacity consequence of fiscal limits goes to the very nature of the constitutional design of our political system, with citizen distrust of government and belief in government waste proving fertile ground for appeals to require voter approval of significant governmental action.

The impact of fiscal limits also extends to other elements of the governance system. By changing the fiscal powers of governments, fiscal limits have reduced the usefulness of government as an instrument of collective action for a community. Governments have less fiscal capacity and

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37. See, e.g., WHY PEOPLE DON'T TRUST GOVERNMENT 77-107, 205-216 (Joseph Nye et al. eds., 1997).

38. See Stansel, *supra* note 8, at 22. The features he advocates include constitutional rather than statutory form, applicable to all expenditures, and applicable to both state and local governments.

39. See generally CAL. LEGISLATIVE ANALYST'S OFFICE, *supra* note 19.

40. See Joel Fox et al., *Argument in Favor of Proposition 218*, reprinted in LEAGUE OF CALIFORNIA CITIES, PROPOSITION 218 IMPLEMENTATION GUIDE A13 (1997).

less flexibility in allocating available funds. In addition, the cost of using government to achieve collective ends has increased. This is seen most visibly in requirements for more elections and associated campaigns on revenue measures.<sup>41</sup>

Other instruments of collective action, such as civic associations, non-profit organizations, neighborhood associations or community forums, may, of course, increase their roles as a consequence of the increased cost of using government. While this is generally a good outcome, their capabilities are limited.<sup>42</sup> Furthermore, only government can make a legitimate choice, tax, and compel adherence to its choices. These three powers reserved to government are critically important in many instances, especially where issues characterized by deep value conflicts (e.g., protection of minorities) or free-rider dynamics are involved. The mechanisms of accountability are simply much better elaborated for government than for non-governmental institutions of collective action. They include elections, conflict of interest provisions, open records, and meeting requirements.

In summary, the less visible, but still direct impacts of fiscal limits upon governance capacity include: (1) substantial movement to plebiscatary democracy, especially with passage of Proposition 218 in 1996; and (2) increased transaction costs imposed upon governments emerging from the simple number of changes in the fiscal system and increased conflicts over revenues and expenditures between the state and local governments and private interests.

#### *Indirect Impacts of Adaptive Actions*

Governmental adaptations to fiscal limits also impact governance capacity. Governments pursue revenues, make cuts, and devise new strategies for action, and the resulting complexity of governmental action makes the whole enterprise less intelligible and accountable.

As elaborated above in Figure 1, large adaptations to fiscal limits have occurred in California. Old devices of public finance have been expanded and new devices invented. New governmental entities have been created. New relationships have been forged among governments. This series of adaptations has led, however, to fragmentation of governmental authority and limitations upon governmental action. For example, county transportation commissions, devised to provide funding for transportation infrastructure through voter approved sales tax increases, provided the desired funding and projects but also increased governmental fragmentation, separating several billions of dollars of revenues annually from the "nor-

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41. For example, Proposition 218 requires more elections on fiscal matters. *See generally* LEGISLATIVE ANALYST, *supra* note 19.

42. *See, e.g.,* PUTNAM, *supra* note 9, at 179-180.

mal" allocation processes of general purpose governments and remaining essentially unaccountable to citizens after the initial vote of approval.<sup>43</sup>

Additionally, the techniques of public finance have become less visible and understandable to citizens. The transparency of property, income, and sales taxes generating revenues allocated through an annual budget process has been complemented with financing and budgetary practices that are complex and much less visible.<sup>44</sup>

Two examples illustrate the general pattern of fiscal adaptation, generating fragmentation and resulting in reduced visibility, intelligibility, and accountability. The first example also illustrates the "fiscalization of land use," where governmental policies affecting land uses are greatly influenced by fiscal factors as opposed to other land use policy goals such as environmental, esthetic, or traffic circulation values.<sup>45</sup> California was among the first states to innovate with tax increment financing to support "urban redevelopment," adopting such financing in 1952.<sup>46</sup> While available to counties, over ninety-seven percent of redevelopment activity occurs in cities.<sup>47</sup> Tax increment financing captures the growth in property tax revenues within boundaries of a redevelopment project, directing them to the redevelopment authority instead of the city, county, schools and special districts which would ordinarily receive the growth, and leaving them with essentially static base line (adjusted for two percent growth annually) revenue streams.<sup>48</sup> These authorities are established and governed by elected city officials, but have separate legal standing and fiscal powers. They afford a vehicle for city action "outside" of traditional city government, which is still fully integrated into the city's aspirations, and offer multiple opportunities for moving funds between the city and the redevelopment authority. In 1970, 86 redevelopment agencies existed, with their number growing to 197 by 1980 and to 399 by 1996 (with a surge of 114 agencies being created between 1981 and 1985).<sup>49</sup>

Redevelopment authorities are not only fiscal devices to generate revenues which can be used for redevelopment projects and to share city overhead expenses but, also are devices of competition for revenues among cities. The powers of redevelopment authorities offered new weapons in the competition for attractive land uses generating large sales tax revenues. Cities began to compete not only through infrastructure to support devel-

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43. See generally PAUL G. LEWIS & MARY SPRAGUE, PUBLIC POLICY INSTITUTE OF CALIFORNIA, FEDERAL TRANSPORTATION POLICY AND THE ROLE OF METROPOLITAN PLANNING ORGANIZATIONS IN CALIFORNIA (1997).

44. See, e.g., Dean J. Misczynski, *Financing Infrastructure in Times of Fiscal Fundamentalism*, in 8 CALIFORNIA POLICY CHOICES 127-150 (John J. Kirilin ed. 1992).

45. See *id.*

46. See generally MICHAEL DARDIA, PUBLIC POLICY INSTITUTE OF CALIFORNIA, SUBSIDIZING REDEVELOPMENT IN CALIFORNIA (1998).

47. See *id.* at 3.

48. See *id.* at 4.

49. See generally BEN H. STAIRS, CALIFORNIA REDEVELOPMENT AGENCIES (1996).

opment, but also by establishing redevelopment tax increment districts in areas that were not blighted.<sup>50</sup> Unfortunately, perceived “abuses” of the redevelopment authority have since led to increased restriction in state law, in other words, restrictions on including rural lands in redevelopment project boundaries, requirements that increased proportions of the revenues received be used for low income housing, and increased “pass throughs” of increases in property taxes to counties and schools.<sup>51</sup>

A second example is seen in the use of Joint Powers Authorities (“JPA’s”), potential vehicles for cooperation among cities.<sup>52</sup> Tom Gardner analyzed use of JPAs in 40 counties, focusing on 114 randomly selected cases, with only 35 coming into existence before 1975 and 63 since 1985.<sup>53</sup> The reasons for such cooperation after 1980 are largely financial—to share costs of a large asset or better matching services to appropriate geographical area—but also include technological factors.<sup>54</sup> The operations of such JPAs are considerably less visible to citizens, however, as they are not directly accountable to citizens. They are governed by peer-selected local government officials from participating governments, and are sometimes augmented by selected staff or citizen representatives.<sup>55</sup>

In short, the indirect effects of adaptations to fiscal limits include diminished intelligibility of governmental activities, reduced visibility, and reduced accountability. The impact upon governance also includes increased transaction costs for governments, citizens, and private interests. The common result of adaptation is fragmentation of governmental authorities, competencies and fiscal resources with aspirations for the future of communities collectively, of individual property owners, or of a government requiring joint approval and action by multiple governmental entities for success.

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50. See DARDIA, *supra* note 46, at 25-27.

51. See *id.*; see also STAIRS, *supra* note 49.

52. See CAL. GOV'T CODE §§ 6500-6598.5 (West Supp. 1998).

53. Thomas M. Gardner, *Joint Powers Agencies: Cooperative Structures in California Local Governments* (1992) (unpublished DPA dissertation, University of Southern California) (on file with the University of Southern California library).

54. See *id.* at 224.

55. See *id.* at 257-263.