

A159487

**COURT OF APPEAL OF THE STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT - DIVISION THREE**

**MICHAEL ARATA,
*Petitioner and Appellant,***

v.

**DEBORAH COOPER, in her official capacity as COUNTY CLERK-
RECORDER AND REGISTRAR OF VOTERS, and**

**SHARON L. ANDERSON, in her official capacity as CONTRA
COSTA COUNTY COUNSEL,
*Respondents.***

**CONTRA COSTA TRANSPORTATION AUTHORITY, a special
district, and**

**CONTRA COSTA COUNTY BOARD OF SUPERVISORS,
*Real Parties in Interest.***

***[PRIORITY MATTER PURSUANT TO ELECTIONS CODE
§ 13314(a)(3)]***

After Order of the Superior Court for the County of Contra Costa,
Case No. MSN192489; Hon. Charles “Steve” Treat
Additional Judge: Hon. Edward G. Weil

**APPELLANT’S MOTION FOR JUDICIAL NOTICE IN SUPPORT
OF REPLY BRIEF; DECLARATION OF JASON A. BEZIS;
PROPOSED ORDER**

Jason A. Bezis, SBN 225641
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Attorney for Petitioner & Appellant Michael Arata

Pursuant to California Rules of Court, rule 8.252 and Evidence Code Section 459, Petitioner and Appellant Michael Arata hereby moves that the Court take judicial notice of the following documents, offered in support of his Reply Brief. The authenticity of these documents is established through the declaration of Jason A. Bezis, which is attached hereto.

The documents to be noticed, Exhibits Y and Z, are relevant to the appeal because they tend to prove factual and legal arguments that the lawsuit is not moot because the circumstances are capable of repetition, yet evading timely appellate legal review. Exhibits Y and Z tend to prove that Real Parties in Interest Contra Costa Transportation Authority and Contra Costa County Board of Supervisors are seeking future ballot measures through special legal authority that they are requesting through California State Senate Bill 1349 (SB 1349), now before the State Legislature. These documents were not presented to the trial court because SB 1349 came into existence after the Notice of Appeal was filed in January 2020.

The documents to be noticed, Exhibits AA, BB, and CC, are relevant to the appeal because they tend to prove factual and

legal arguments that the ballot label is partial, argumentative and/or prejudicial in favor of the CCTA measure and that County Counsel's impartial analysis is partial, unfair, false, and/or misleading. These documents were not presented to the trial court because Appellant and his attorney were not then aware of their existence. Exhibits AA, BB, and CC also rebut and tend to disprove the contention in RPI CCTA's opposition brief at page 41 that "CCTA's reasoned judgement as to the content of the ballot label must be given appropriate deference" because these exhibits tend to prove that CCTA wrote the ballot label in accordance with voter survey results, weeks before the transportation expenditure plan was generated.

The documents are subject to judicial notice under Evidence Code sections 451, 452, or 453, for the reasons set forth below.

Pursuant to Evidence Code § 452(c) and (h), of the text of California State Senate Bill 1349 (Glazer), as amended on April 8, 2020. This is an official act of the legislative department of the State of California. *County of Los Angeles v. Los Angeles County Employee Relations Com.* (2013) 56 Cal.4th 905, 923, fn. 16. In support thereof, attached hereto as Exhibit Y is a true and

correct copy of said document, as downloaded from the Legislature's official internet website.

2. Pursuant to Evidence Code § 452(c) and (h), of the Senate Rules Committee's Senate Floor Analysis of SB 1349 (Glazer) dated June 5, 2020. This is an official act of the legislative department of the State of California. *County of Los Angeles v. Los Angeles County Employee Relations Com.* (2013) 56 Cal.4th 905, 923, fn. 16. The Third Appellate District has directly held that a Senate Floor Analysis is a document constituting cognizable legislative history. *Kaufman & Broad Communities, Inc. v. Performance Plastering, Inc.* (2005) 133 Cal.App.4th 26, 37. In support thereof, attached hereto as Exhibit Z is a true and correct copy of said document, as downloaded from the Legislature's official internet website.

3. Pursuant to Evidence Code §§ 452(c) and (h), of relevant excerpts of the Contra Costa Transportation Authority (hereinafter "CCTA") Board meeting agenda for May 15, 2019 concerning Item 4.1 (Consideration of Development of a New Transportation Expenditure Plan). In support thereof, attached hereto as Exhibit AA is a true and correct copy of the relevant

excerpts of said document, as downloaded from CCTA's official internet website.

4. Pursuant to Evidence Code §§ 452(c) and (h), of relevant excerpts of the Staff Report for Item 4.1 of the CCTA Board meeting agenda for May 15, 2019. In support thereof, attached hereto as Exhibit BB is a true and correct copy of the relevant excerpts of said document (first four pages), as downloaded from CCTA's official internet website.

5. Pursuant to Evidence Code §§ 452(c) and (h), "EMC Research Contra Costa County Voter Survey Conducted for Contra Costa Transportation Authority Executive Summary Presented to CCTA Board –May 15, 2019," part of the Board materials considered at the May 15, 2019 CCTA Board meeting for Item 4.1. In support thereof, attached hereto as Exhibit CC is a true and correct copy of said document, as downloaded from CCTA's official internet website (32 pages).

Exhibits Y, Z, AA, BB, and CC are judicially noticeable under Evidence Code section 452(c), which authorizes judicial notice of "[o]fficial acts of the legislative, executive, and judicial departments of the United States and of any state of the United States." Courts have held that Evidence Code section 452(c)

applies to official acts of counties, cities and other local agencies. (*Trinity Park, L.P. v. City of Sunnyvale* (2011) 193 Cal.App.4th 1014, 1027; *Shapiro v. Bd. of Directors* (2005) 134 Cal.App.4th 170, 174, fn. 2; *Evans v. City of Berkeley* (2006) 38 Cal.4th 1 [same]; *Beverly Hills Unified School Dist. v. Los Angeles County Metropolitan Transportation Authority* (2015) 241 Cal.App.4th 627, 668.) "Official acts" under Evidence Code section 452(c) also include "the records and files" of a public entity covered by that subdivision. (*Fowler v. Howell* (1996) 42 Cal.App.4th 1746, 1750; *Cedar Fair, L.P. v. City of Santa Clara* (2011) 194 Cal.App.4th 1150, 1156-1158; *Chas. L. Harney v. California* (1963) 217 Cal.App.2d 77, 85; *Agostini v. Strycula* (1965) 231 Cal.App.2d 804, 806.)

Dated: July 27, 2020

Respectfully submitted,



JASON A. BEZIS
Attorney for Petitioner and Appellant Michael
Arata

DECLARATION OF AUTHENTICITY
DECLARATION OF JASON A. BEZIS

I, Jason A. Bezis, declare as follows:

1. I am an attorney licensed to practice in the State of California. I am attorney for Petitioner and Appellant in this case. I have personal knowledge of the facts stated in this declaration and am competent to testify as to them if called as a witness.

2. The attached Exhibit Y is a true and correct copy of California State Senate Bill 1349, as amended April 8, 2020, that I personally downloaded in electronic form from the State Legislature’s “California Legislative Information” official internet website at:
http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201920200SB1349

3. The attached Exhibit Z is a true and correct copy of the Senate Rules Committee’s Senate Floor Analysis for SB 1349 (Glazer) dated June 5, 2020 that I personally downloaded in electronic form from the State Legislature’s “California Legislative Information” official website at:
http://leginfo.legislature.ca.gov/faces/billAnalysisClient.xhtml?bill_id=201920200SB1349#

4. The attached Exhibit AA is a true and correct copy of relevant excerpts of the Contra Costa Transportation Authority (hereinafter “CCTA”) Board meeting agenda for May 15, 2019 (cover page and page that includes Item 4.1) that I personally downloaded in electronic form from the CCTA official internet

website at:

[http://ccta.granicus.com/GeneratedAgendaViewer.php?view_id=1
&clip_id=451](http://ccta.granicus.com/GeneratedAgendaViewer.php?view_id=1&clip_id=451)

5. The attached Exhibit BB is a true and correct copy of relevant excerpts (first four pages) of the Staff Report for Item 4.1 of the CCTA Board meeting agenda for May 15, 2019 that I personally downloaded in electronic form from the CCTA official internet website at:

[https://ccta.granicus.com/MetaViewer.php?view_id=1&clip_id=451
&meta_id=42845](https://ccta.granicus.com/MetaViewer.php?view_id=1&clip_id=451&meta_id=42845) Neither I nor Appellant was aware of the existence of this document until preparation of Appellant's Reply Brief.

6. The attached Exhibit CC is a true and correct copy of "EMC Research Costa County Voter Survey Conducted for Contra Costa Transportation Authority Executive Summary Presented to CCTA Board –May 15, 2019," part of the May 15, 2019 CCTA Board meeting agenda packet, that I personally downloaded in electronic form from the official CCTA internet website at:

[https://ccta.granicus.com/MetaViewer.php?view_id=1&clip_id=451
&meta_id=42876](https://ccta.granicus.com/MetaViewer.php?view_id=1&clip_id=451&meta_id=42876) Neither I nor Appellant was aware of the existence of this document until preparation of Appellant's Reply Brief.

I declare under penalty of perjury pursuant to the laws of the State of California that the foregoing is true and correct.
Executed on this 27th day of July, 2020, at Lafayette, California.



JASON A. BEZIS

A159487

**COURT OF APPEAL OF THE STATE OF CALIFORNIA
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After Order of the Superior Court for the County of Contra Costa,
Case No. MSN192489; Hon. Charles “Steve” Treat
Additional Judge: Hon. Edward G. Weil

[PROPOSED] ORDER

The Court grants Petitioner & Appellant’s July 27, 2020 motion for
judicial notice and hereby takes notice of the following documents:

Exhibit Y _____

Exhibit Z _____

Exhibit AA _____

Exhibit BB _____

Exhibit CC _____

IT IS SO ORDERED.

Dated: _____, 2020

Justice of the Court of Appeal

PROOF OF SERVICE

I, the undersigned, declare under penalty of perjury that:

I am a citizen of the United States, over the age of 18, and not a party to the within cause of action. My business address is 3661-B Mosswood Drive, Lafayette, CA 94549-3509. On July 27, 2020, I served a true copy of the following document:

APPELLANT’S MOTION FOR JUDICIAL NOTICE IN SUPPORT OF REPLY BRIEF; DECLARATION OF JASON A. BEZIS; PROPOSED ORDER

on the following parties in said action:

Thomas L. Geiger, Assistant County Counsel
COUNTY OF CONTRA COSTA
Thomas.Geiger@cc.cccounty.us
Attorney for Deborah Cooper, Sharon L. Anderson and Contra Costa County Board of Supervisors

Jason D. Kaune, Hilary J. Gibson
NIELSEN MERKSAMER PARRINELLO GROSS & LEONI LLP
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hgibson@nmgovlaw.com
Attorneys for Contra Costa Transportation Authority

Electronic copy submitted to Court of Appeal upon filing (CRC 8.78)

BY EMAIL TRANSMISSION: By emailing the document(s) to the persons at the email addresses listed based on a court order or an agreement of the parties to accept service by email. No electronic message or other indication that the transmission was unsuccessful was received within a reasonable time after the transmission.

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Clerk of the Court; Contra Costa County Superior Court; 725 Court Street;
Martinez, CA 94553

BY UNITED STATES MAIL: By enclosing the document in a sealed envelope or package addressed to the persons at the address above and depositing the sealed envelope with the United States Postal Service, with the postage fully prepaid.

I declare, under penalty of perjury, that the foregoing is true and correct. Executed on July 27, 2020, in Lafayette, California.



JASON A. BEZIS

Exhibit Y

[Home](#)[Bill Information](#)[California Law](#)[Publications](#)[Other Resources](#)[My Subscriptions](#)[My Favorites](#)**SB-1349 Transactions and use taxes: County of Contra Costa.** (2019-2020)

SHARE THIS:



Date Published: 04/08/2020 09:00 PM

AMENDED IN SENATE APRIL 08, 2020

CALIFORNIA LEGISLATURE— 2019–2020 REGULAR SESSION

SENATE BILL**NO. 1349****Introduced by Senator Glazer****February 21, 2020**

~~An act to amend Section 4213 of the Public Resources Code, relating to fire prevention.~~ *An act to amend Sections 29140 and 180201 of the Public Utilities Code, and to amend Section 7291 of, and to add Chapter 3.94 (commencing with Section 7299.2) to Part 1.7 of Division 2 of, the Revenue and Taxation Code, relating to taxation.*

LEGISLATIVE COUNSEL'S DIGEST

SB 1349, as amended, Glazer. ~~State responsibility area fire prevention fees.~~ *Transactions and use taxes: County of Contra Costa.*

Existing law authorizes various specified cities and counties, subject to certain limitations and approval requirements, to levy a transactions and use tax for general or specific purposes, in accordance with the procedures and requirements set forth in the Transactions and Use Tax Law. A provision of the Transactions and Use Tax Law prohibits the combined rate of all taxes that may be imposed in accordance with that law in a county from exceeding 2%.

Existing law, the Local Transportation Authority and Improvement Act, generally authorizes a county board of supervisors to create or otherwise designate a transportation authority in the county that may impose a transactions and use tax at a rate not to exceed 1% for specified county streets and highway projects or public transit projects, in conformity with the Transaction and Use Tax Law, if the tax ordinance is adopted by a $\frac{2}{3}$ vote of the authority and if the ordinance is subsequently approved by a majority of the voters. Existing law, before January 1, 2021, also authorizes the Contra Costa Transportation Authority to impose a transactions and use tax for the support of countywide transportation programs at a rate of no more than 0.5% that, in combination with other transactions and use taxes, exceeds the above-described combined rate limit of 2%, if certain requirements are met, including a requirement that the ordinance proposing the transactions and use tax be submitted to, and approved by, the voters.

Existing law, the San Francisco Bay Area Rapid Transit District Act, creates the San Francisco Bay Area Rapid Transit District, which comprises a territory that includes the County of Contra Costa, and, among other things,

Appellant's MJN00014

authorizes the board of directors of the district to impose transactions and use taxes in conformity with the Transactions and Use Tax Law for specified purposes, subject to periodic legislative review and amendment, as provided.

This bill would provide that, notwithstanding the combined rate limit under the Transactions and Use Tax Law, neither a transaction and use tax rate imposed in the County of Contra Costa by the transportation authority for those county streets and highway projects, public transit projects, or countywide transportation programs nor a transactions and use tax rate imposed by the San Francisco Bay Area Rapid Transit District, as specified, will be considered for purposes of that combined rate limit within the County of Contra Costa. The bill would declare that the changes made with regard to taxes imposed by the Contra Costa Transportation Authority for countywide transportation programs are declaratory of existing law.

This bill would also authorize the County of Contra Costa to impose a transactions and use tax in conformity with the Transactions and Use Tax Law for general or specific purposes to support countywide programs at a rate of no more than 0.50% that, in combination with other transactions and use taxes, would exceed the above-described combined rate limit of 2% if certain requirements are met, including a requirement that the ordinance proposing the transactions and use tax be submitted to, and approved by, the voters. The bill would provide that, notwithstanding the combined rate limit under the Transactions and Use Tax Law, a transaction and use tax rate imposed in the County of Contra Costa imposed pursuant to the authority provided by this bill will not be considered for purposes of that combined rate limit within the County of Contra Costa.

This bill would make legislative findings and declarations as to the necessity of a special statute for the County of Contra Costa.

~~Existing law provides that the state has the primary financial responsibility for preventing and suppressing fires in areas that the State Board of Forestry and Fire Protection has determined are state responsibility areas, as defined. Existing law, until July 1, 2017, required that a fire prevention fee be charged on each habitable structure on a parcel that is within a state responsibility area, to be used for specified fire prevention activities, and prescribed procedures for the collection and processing of the fees by the State Board of Equalization. Existing law requires the Department of Forestry and Fire Protection to provide to the State Board of Equalization certain information, including a contact number for the State Board of Forestry and Fire Protection to be printed on a bill for the fee to respond to questions about the fee. Existing law repeals those provisions requiring the payment of the fee on January 1, 2031.~~

~~In 2017, the California Department of Tax and Fee Administration and the Office of Tax Appeals were established, and existing law transferred many of the tax and fee administration and appeals of taxes and fees from the State Board of Equalization to the department and the office, respectively.~~

~~This bill would change the reference in the fire prevention fee provisions from the "State Board of Equalization" to the "California Department of Tax and Fee Administration" or the "Office of Tax Appeals," as appropriate. The bill would require the Department of Forestry and Fire Protection to provide the above information to the California Department of Tax and Fee Administration. The bill would additionally require the Department of Forestry and Fire Protection to provide the State Board of Forestry and Fire Protection's internet website information regarding the fee to be printed on the bill.~~

Vote: majority Appropriation: no Fiscal Committee: **yesno** Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. *Section 29140 of the Public Utilities Code is amended to read:*

29140. (a) The board shall, by ordinance, impose transactions and use taxes in conformity with Part 1.6 (commencing with Section 7251) of Division 2 of the Revenue and Taxation Code for the purposes specified in Sections 29142 and 29142.2, subject to periodic legislative review and amendment.

(b) (1) Notwithstanding Section 7251.1 of the Revenue and Taxation Code, a transactions and use tax rate imposed pursuant to subdivision (a) on or before ~~the effective date of the act adding this subdivision~~ **January 1, 2020**, that applies within the County of Alameda shall not be considered for purposes of the combined rate limit within the County of Alameda established by that section.

(2) Notwithstanding Section 7251.1 of the Revenue and Taxation Code, a transactions and use tax rate imposed pursuant to subdivision (a) on or before the effective date of the act adding this subdivision that applies within the County of Contra Costa shall not be considered for purposes of the combined rate limit within the County of

Contra Costa established by that section.

SEC. 2. *Section 180201 of the Public Utilities Code is amended to read:*

180201. (a) (1) ~~A-retail~~ transactions and use tax ordinance applicable in the incorporated and unincorporated territory of a county may be imposed by the authority in accordance with this chapter and Part 1.6 (commencing with Section 7251) of Division 2 of the Revenue and Taxation Code, if the tax ordinance is adopted by a two-thirds vote of the authority and imposition of the tax is subsequently approved by a majority of the electors voting on the measure, or by any otherwise applicable voter approval requirement, at a special election called for that purpose by the board of supervisors, at the request of the authority, and a county transportation expenditure plan is adopted pursuant to Section 180206.

~~A-retail~~

(2) *A* transactions and use tax approved by the electors *pursuant to this subdivision* shall remain in effect for the period of time specified in the tax ordinance. The tax may be continued in effect, or reimposed, by a tax ordinance adopted by a two-thirds vote of the authority and the reimposition of the tax is approved by any applicable majority of the electors.

(b) Notwithstanding Section 7251.1 of the Revenue and Taxation Code, a transactions and use tax rate imposed pursuant to subdivision (a) in the County of Contra Costa shall not be considered for purposes of the combined rate limit within the County of Contra Costa established by that section.

SEC. 3. *Section 7291 of the Revenue and Taxation Code is amended to read:*

7291. (a) Notwithstanding any other law, the Contra Costa Transportation Authority may impose a transactions and use tax for the support of countywide transportation programs at a rate of no more than 0.5 percent that would, in combination with all taxes imposed pursuant to Part 1.6 (commencing with Section 7251), exceed the limit established in Section 7251.1, if all of the following requirements are met:

~~(a)~~

(1) The Contra Costa Transportation Authority adopts an ordinance proposing the transactions and use tax by any applicable voting approval requirement.

~~(b)~~

(2) The ordinance proposing the transactions and use tax is submitted to the electorate and is approved by the voters voting on the ordinance pursuant to Article XIII C of the California Constitution.

~~(c)~~

(3) The transactions and use tax conforms to the Transactions and Use Tax Law, Part 1.6 (commencing with Section 7251), other than Section 7251.1.

(b) (1) Notwithstanding Section 7251.1, a transactions and use tax rate imposed pursuant to subdivision (a) shall not be considered for purposes of the combined rate limit established by Section 7251.1.

(2) This subdivision does not constitute a change in, but is declaratory of, existing law.

SEC. 4. *Chapter 3.94 (commencing with Section 7299.2) is added to Part 1.7 of Division 2 of the Revenue and Taxation Code, to read:*

CHAPTER 3.94. Local Government Finance in the County of Contra Costa

7299.2. (a) *Notwithstanding any other law, the County of Contra Costa may impose a transactions and use tax for general or specific purposes to support countywide programs at a rate of no more than 0.5 percent that would, in combination with all taxes imposed in accordance with the Transactions and Use Tax Law (Part 1.6 (commencing with Section 7251)), exceed the limit established in Section 7251.1, if all of the following requirements are met:*

(1) The county adopts an ordinance proposing the transactions and use tax by any applicable voting approval requirement.

(2) The ordinance proposing the transactions and use tax is submitted to the electorate and is approved by the voters voting on the ordinance pursuant to Article XIII C of the California Constitution.

(3) *The transactions and use tax conforms to the Transactions and Use Tax Law (Part 1.6 (commencing with Section 7251)), other than Section 7251.1.*

(b) *Notwithstanding Section 7251.1, a transactions and use tax rate imposed pursuant to subdivision (a) shall not be considered for purposes of the combined rate limit established by Section 7251.1.*

SEC. 5. *The Legislature finds and declares that a special statute is necessary and that a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of the unique fiscal pressures being experienced in the County of Contra Costa.*

~~SECTION 1. Section 4213 of the Public Resources Code is amended to read:~~

~~4213.(a)(1) Commencing with the 2011-12 fiscal year, the fire prevention fee imposed pursuant to Section 4212 shall be collected annually by the California Department of Tax and Fee Administration in accordance with the Fee Collection Procedures Law (Part 30 (commencing with Section 55001) of Division 2 of the Revenue and Taxation Code).~~

~~(2) Notwithstanding the appeal provisions in the Fee Collection Procedures Law, a determination by the department that a person is required to pay a fire prevention fee, or a determination by the department regarding the amount of that fee, is subject to review under Article 2 (commencing with Section 4220) and is not subject to a petition for redetermination by the Office of Tax Appeals.~~

~~(3)(A) Notwithstanding the refund provisions in the Fee Collection Procedures Law, the Office of Tax Appeals shall not accept any claim for refund that is based on the assertion that a determination by the department improperly or erroneously calculated the amount of the fire prevention fee, or incorrectly determined that the person is subject to that fee, unless that determination has been set aside by the department or a court reviewing the determination of the department.~~

~~(B) If it is determined by the department or a reviewing court that a person is entitled to a refund of all or part of the fire prevention fee, the person shall make a claim to the Office of Tax Appeals pursuant to Chapter 5 (commencing with Section 55221) of Part 30 of Division 2 of the Revenue and Taxation Code.~~

~~(b) The annual fire prevention fee shall be due and payable 30 days from the date of assessment by the California Department of Tax and Fee Administration.~~

~~(c) On or before each January 1, the department shall annually transmit to the California Department of Tax and Fee Administration the appropriate name and address of each person who is liable for the fire prevention fee and the amount of the fee to be assessed, as authorized by this article, and at the same time the department shall provide to the California Department of Tax and Fee Administration the board's internet website information and a contact telephone number for the board to be printed on the bill to respond to questions about the fee.~~

~~(d) Commencing with the 2012-13 fiscal year, if in any given fiscal year there are sufficient amounts of money in the State Responsibility Area Fire Prevention Fund created pursuant to Section 4214 to finance the costs of the programs under subdivision (d) of Section 4214 for that fiscal year, the fee may not be collected that fiscal year.~~

Exhibit Z

THIRD READING

Bill No: SB 1349
Author: Glazer (D)
Amended: 4/8/20
Vote: 21

SENATE GOVERNANCE & FIN. COMMITTEE: 3-2, 5/21/20 (FAIL)
AYES: McGuire, Beall, Wiener
NOES: Moorlach, Nielsen
NO VOTE RECORDED: Hertzberg, Hurtado

SENATE GOVERNANCE & FIN. COMMITTEE: 4-2, 6/3/20
AYES: McGuire, Hertzberg, Hurtado, Wiener
NOES: Moorlach, Nielsen
NO VOTE RECORDED: Beall

SUBJECT: Transactions and use taxes: County of Contra Costa

SOURCE: Author

DIGEST: This bill permits Contra Costa County, and cities within Contra Costa County, additional legal flexibility to impose local transactions and use taxes.

ANALYSIS:

Existing law:

- 1) Imposes the sales tax on every retailer engaged in business in this state that sells tangible personal property, and requires them to collect the appropriate tax from the purchase and remit the amount to the California Department of Tax and Fee Administration.
- 2) Applies whenever a retail sale is made, which is basically any sale other than one for resale in the regular course of business.
- 3) Provides that unless the person pays the sales tax to the retailer, he or she is liable for the use tax, which is imposed on any person consuming tangible

personal property in the state. The use tax rate is the same rate as the sales tax rate, and must be remitted on or before the last day of the month following the quarterly period in which the person made the purchase.

- 4) Levies the sales and use tax at a current rate of 7.25%.
- 5) States that taxes levied by local governments are either general taxes, subject to majority approval of its voters, or special taxes, subject to 2/3 vote (California Constitution, Article XIII C).
- 6) Allows cities, counties, and specified special districts, including the San Francisco Bay Area Rapid Transit District and the Contra Costa County Transportation Authority, to increase the sales and use tax applied within their jurisdictions, also known as district or transactions and use taxes, for either specific or general purposes pursuant to the California Constitution's voter approval requirements.
- 7) Caps the maximum district tax rate at 2% within a county; however, allows several exceptions from the cap for the Cities of El Cerrito and Santa Fe Springs, San Mateo County, Sonoma County (and any city in Sonoma County), the Transportation Agency for Monterey County, and the Los Angeles Metropolitan Transportation Authority, among others.
- 8) Authorizes the County of Alameda and the Contra Costa County Transportation Authority to impose a district tax of up to 0.5% outside the 2% cap (AB 210, Wieckowski, Chapter 194, Statutes of 2013, and AB 1665, Bonilla, Chapter 45, Statutes of 2016).
- 9) Permits the City of El Cerrito in Contra Costa County to impose a 0.5% district tax within its boundaries exempt from the cap (AB 1324, Skinner, Chapter 795, Statutes of 2014).
- 10) Provides that neither the district tax imposed by the San Francisco Bay Area Rapid Transit (BART) nor the 0.5% authorized by AB 310 in Alameda County count toward the 2% cap in Alameda County (AB 723, Quirk, Chapter 747, Statutes of 2019).

This bill:

- 1) Provides that the current 0.5% district tax imposed by BART, the current 0.5% Contra Costa County Transportation Tax, and a potential future 0.5% Contra Costa County Transportation Tax, do not count against the 2% cap in Contra Costa County.

- 2) Clarifies that AB 210's and AB 1665's specific authority for the Contra Costa County Transportation Authority do not count against the cap in Contra Costa County.
- 3) Authorizes Contra Costa County to impose a new countywide district tax up to 0.5% exempt from the cap, so long as the county board of supervisors enacts an ordinance, voters approve the tax by the applicable Constitutional voter threshold, and the tax otherwise complies with state law.
- 4) Makes a legislative finding stating that a statute specific to Contra Costa County is necessary.

Background

Contra Costa County has two countywide district taxes, a 0.5% rate applicable to all counties within the BART District, as well as a 0.5% rate imposed by the Contra Costa County Transportation Authority, for a countywide rate of 8.25%. The Legislature has additionally authorized the Contra Costa County Transportation Authority to impose a district tax of up to 0.5% for transportation purposes outside the 2% cap; however, the County has not imposed a tax using this authority.

The City of El Cerrito imposes a 1.5% rate within its boundaries, 0.5% of which is exempt from the cap, for a total rate of 9.75%. 16 other cities in the county also impose district taxes. As a result, Contra Costa County cannot impose an additional tax because the 2% cap applies countywide, unless it imposed it only in the unincorporated area, which the Legislature authorized in 2014 (AB 2119, Stone, Chapter 148, Statutes of 2014).

Last year, the Legislature approved, but the Governor vetoed AB 618 (Stone), which permitted the Cities of Emeryville (Alameda County) and Scotts Valley (Santa Cruz County) to impose a tax of up to 0.25% that exceeds the 2% cap. The veto message stated that it was unclear whether authorization was needed because both had room within the cap to impose the tax. In response, the Legislature enacted AB 723 (Quirk), which provided that neither the tax imposed by BART nor the tax imposed by the Alameda County Transportation Commission counts against the 2% cap, and made a similar change in Santa Cruz County. Instead of explicitly allowing tax above the cap, AB 723 created more room under it for Alameda County, and cities in Alameda and Santa Cruz counties to impose district taxes.

SB 1349 builds on AB 723's approach to state that existing transportation taxes in Contra Costa County do not count toward the 2% cap, which clears 1% of total room under the countywide cap. However, this method comes with risks that do not apply when taxes are explicitly exempted from the cap. For example, the County of Contra Costa as well as any city in Contra Costa County could use SB 1349 to impose a tax of up to 1%; however, the County imposing a tax at 1% would preclude any city in Contra Costa County from also doing so. The reverse would also be true – any city in Contra Costa County that imposed a tax of 1% would again crowd out the County, unless the county used the other authority in the bill to impose a tax explicitly exempted from the cap.

FISCAL EFFECT: Appropriation: No Fiscal Com.: No Local: No

SUPPORT: (Verified 6/4/20)

California Labor Federation
California Professional Firefighters
California Teamsters Public Affairs Council
City of Concord
City of Danville
City of Lafayette
City of Pittsburg
City of San Ramon
Contra Costa County
Contra Costa Transportation Authority
International Federation of Professional and Technical Engineers, Local 21
Office and Professional Employees International Union, Local 29
SEIU California

OPPOSITION: (Verified 6/4/20)

Alliance of Contra Costa Taxpayers
California Taxpayers Association
Contra Costa County Taxpayers Association
Howard Jarvis Taxpayers Association
Transportation Solutions Defense and Education Fund

ARGUMENTS IN SUPPORT: According to the author, “SB 1349 would allow the county of Contra Costa, or a city within the county, to increase sales and use taxes to support programs and services with voter approval. Cities and counties across the state are responsible with providing their constituents with a number of supportive services to address local needs. This includes police and fire services,

homeless services and public health services. The County of Costa County has been heavily impacted by the recent COVID-19 pandemic. The County estimates losses of nearly \$100 million in revenue, while cities estimate losses of up to \$8 million. This bill will provide Contra Costa County with the tools it needs to generate funding to mitigate the negative impact COVID-19 will undoubtedly have on critical services. The state Legislature has recently approved several similar bills, and this bill is consistent with the provisions of previous legislation. The need for public services is likely to increase in the aftermath of this pandemic. This bill is a reasonable effort to address ongoing funding needs.”

ARGUMENTS IN OPPOSITION: According to the Howard Jarvis Taxpayers Association, “In the years following, a number of municipalities have sought legislative authorization to increase their sales tax rates above this common-sense threshold. SB 1349 would allow Contra Costa County to authorize a maximum sales tax of up to 0.5%, thus exceeding the two percent threshold. Because the bill solely addresses transportation projects, the sales tax increase would require a two-thirds local vote of county residents to be approved. Sales taxes are especially regressive and tend to disproportionately increase expenses for low income residents. Also, California has the highest sales tax in the nation. Considering that 70 percent of the nation’s economic output hinges on the buying and selling of consumer goods, communities should be mindful of the economic impact of asking the Legislature to approve even more taxes. This is especially true in the midst of the COVID-19 pandemic where both state and local governments have experienced drastic declines in sales tax revenue. Finally, increasing taxes across multiple jurisdictions makes tax compliance more difficult for retailers and increases the likelihood of picking winners and losers in the private sector economy.”

Prepared by: Colin Grinnell / GOV. & F. / (916) 651-4119
6/5/20 11:56:16

**** END ****

Exhibit AA



CONTRA COSTA
transportation
authority

COMMISSIONERS Robert Taylor, Chair • Julie Pierce, Vice Chair • Janet Abelson • Newell Arnerich • Tom Butt • Teresa Geringer • Federal Glover
Loella Haskew • David Hudson • Karen Mitchoff • Kevin Romick

ALTERNATES Candace Andersen • Juan Banales • Diane Burgis • John Gioia • David Hudson • Ree Morgan • Sue Noack • Carlyn Obringer
Renata Sos • Roy Swearingen • Sean Wright

EX-OFFICIOS Amy Worth, MTC • Debora Allen, BART • Monica Wilson, Public Transit Bus Operators

ALTERNATES Chris Kelley, Public Transit Bus Operators • Mark Foley, BART

Executive Director Randell H. Iwasaki

Authority Board Meeting **AGENDA**

(Full packet with attachments available at www.ccta.net)

This meeting is scheduled to be audiocast live on the CCTA website.

Visit the Public Meetings page under "Get Involved" to tune in.



DATE: May 15, 2019

TIME: 6:00 pm

PLACE: Contra Costa Transportation Authority
2999 Oak Road, Suite 110
Walnut Creek, CA 94597

-
- A. CONVENE MEETING:** Robert Taylor, Chair
- B. PLEDGE OF ALLEGIANCE**
- C. PUBLIC COMMENT:** Members of the public are invited to address the Authority regarding any item that is not listed on the agenda. Please complete one of the speaker cards in advance of the meeting and hand it to a member of the staff.
- D. PRESENTATION: Contra Costa Bus Transit Operators.** Staff Contact: Peter Engel
(No Attachment – Information)
- 1.0 APPROVAL OF MINUTES:** Authority Minutes of April 17, 2019. (Attachment – Action)
- 2.0 CONSENT CALENDAR:**
- 2.A Administration & Projects Committee:**

Zipcar. According to federal funding requirements, a Public Interest Finding (PIF) must be completed before awarding the agreement to a sole proposer. The PIF was approved by the California Department of Transportation (Caltrans) Local Assistance on April 24, 2019. The total cost of this contract is not-to-exceed \$504,125. Staff Contact: Peter Engel (*Attachment – Action*)

END OF CONSENT CALENDAR

3.0 MAJOR DISCUSSION ITEMS

4.0 REGULAR AGENDA ITEMS:

4.A Administration & Projects Committee:

4.1 NEW ITEM: Consideration of Development of a New Transportation Expenditure Plan (TEP) and Next Steps. Staff seeks direction from the Authority Board to proceed with the development of a new TEP and placement on the March 2020 ballot, authorization for the Chair to execute Amendment No. 3 to Agreement No. 468 with Convey, Inc. (Convey) in the amount of \$700,000 for public and stakeholder outreach, as well as preparation of informational material for a new TEP, and authorization for the Chair to execute Amendment No. 4 to Agreement No. 278 with Kittelson and Associates, Inc. (Kittelson) in the amount of \$200,000 to perform traffic analysis and understand the benefits of a new TEP. Staff Contact: Timothy Haile (*Attachment – Action*)

4.B Planning Committee: None

5.0 CORRESPONDENCE AND COMMUNICATIONS

5.1 Letter from the City of Concord dated May 7, 2019 RE: Evaluating the Feasibility of a New University Campus on the Concord Naval Weapons Station (*Attachment – Information*)

6.0 ASSOCIATED COMMITTEE REPORTS:

6.1 Central County (TRANSPAC): Meeting Report of May 9, 2019 (*Meeting handout if available*)

6.2 East County (TRANSPLAN): Meeting Report of May 9, 2019 (*Meeting handout if available*)

Exhibit BB

Contra Costa Transportation Authority **STAFF REPORT**

Meeting Date: May 15, 2019

Subject	Consideration of Development of a New Transportation Expenditure Plan (TEP) and Next Steps
Summary of Issues	<p>At its February 2019 Authority Board meeting, the Authority authorized staff to begin exploring development of a new TEP and conduct public opinion research, propose guiding principles, and prepare a work plan, schedule and cost estimate for development of a new TEP. Staff has conducted public opinion research, developed proposed guiding principles, and prepared a work plan, schedule, and budget for development of a new TEP.</p>
Recommendations	<ol style="list-style-type: none"> 1. Staff seeks direction from the Authority Board to proceed with the development of a new TEP and placement on the March 2020 ballot. 2. Staff seeks authorization for the Chair to execute Amendment No. 3 to Agreement No. 468 with Convey, Inc. (Convey) in the amount of \$700,000 for public and stakeholder outreach, as well as preparation of informational material for a new TEP. 3. Staff seeks authorization for the Chair to execute Amendment No. 4 to Agreement No. 278 with Kittelson and Associates, Inc. (Kittelson) in the amount of \$200,000 to perform traffic analysis and understand the benefits of a new TEP.
Financial Implications	<p>The total budget for developing a new TEP and placement on the March 2020 ballot is estimated to be \$2.95 million. Anticipated costs include consultants to support the development of a new TEP, public outreach, and stakeholder outreach. Estimated fees in the amount of \$1.5 million will be paid to the Registrar of Voters and County Clerk-Recorder to place a new TEP on the March 2020 ballot.</p> <p>Measure C reserves are approximately \$3 million and will be used to fund \$2.6 million of the proposed budget. The remaining \$350,000 of the proposed \$2.95 million budget will be funded by Measure J Transportation Planning funds.</p>

Options	Defer TEP development
Attachments	A. Guiding Principles for Development of a new TEP B. TEP Work Plan
Changes from Committee	N/A

Background

At its February 2019 Authority Board meeting, the Authority authorized staff to begin exploring development of a new TEP and conduct public opinion research, propose guiding principles, and prepare a work plan, schedule and cost estimate for development of a new TEP.

Staff presented the initial public opinion research, proposed guiding principles and work plan at the April 2019 Authority Board meeting. Based on feedback received, the guiding principles and work plan have been finalized for Authority Board consideration and approval.

Guiding Principles for Development of a New Transportation Expenditure Plan (TEP)

An initial step in developing a new TEP is to adopt guiding principles. Development of a new TEP should be guided by principles that build on the Mission, Vision, and Goals, and embrace the values of collaboration between the Authority, its partner agencies, and the public. Development of a new TEP will require technical, political, public and stakeholder outreach. The guiding principles will help guide the Authority through the regional, stakeholder, public outreach, and TEP development process. In Attachment A, the proposed guiding principles have been updated based on feedback received in April 2019 for consideration by the Authority Board.

Process for Developing a New Transportation Expenditure Plan (TEP)

Authority staff has developed a TEP Work Plan outlining the outreach plan, stakeholder outreach, public outreach, regional outreach and input, TEP development, and a schedule. Developing a new TEP is a process that will require a significant level of regional, stakeholder and public outreach. In Attachment B, an Outreach Plan graphic has been developed to show the general flow of information among the participants involved in the development of a new TEP.

Based on direction received from the Authority Board in April 2019, it is anticipated that a new TEP will be placed on the March 2020 ballot. For the March 2020 ballot, staff estimates that the process of developing a new TEP will take about six months and the Authority will hold Special Authority Board meetings to guide the development and approve a TEP. In Attachment B, the TEP Work Plan outlines the proposed detailed schedule for placing a new TEP on the March 2020 ballot.

To develop a new TEP, Authority staff will review other recently approved measures such as Regional Measure 3 (RM3) and Senate Bill 1 (SB1), new methods for balancing flexibility and accountability, investing for new mobility solutions, planning for emerging technologies, and maximizing funding through leveraging opportunities.

Proposed Budget

The total budget for developing a new TEP and placement on the March 2020 ballot is estimated to be \$2.95 million. Anticipated costs include consultants to support the development of a new TEP, public outreach, and stakeholder outreach. Staff seeks authorization for the Chair to execute Amendment No. 3 to Agreement No. 468 with Convey in the amount of \$700,000 for public and stakeholder outreach, as well as preparation of informational material for a new TEP. A future agreement for a Program and Project Management consultant will be brought to the Authority Board for approval in June 2019, which will include \$400,000 to develop a new TEP. Staff seeks authorization for the Chair to execute Amendment No. 4 to Agreement No. 278 with Kittelson in the amount of \$200,000 to perform traffic analysis and understand the benefits of a new TEP. A budget of \$50,000 will be used from Agreement No. 465 with Placeworks, Inc. to support the traffic analysis of a new TEP. It is estimated that \$100,000 will be needed to perform an economic analysis of a new TEP and a future agreement will be brought to the Authority Board for approval. Estimated fees in the amount of \$1.5 million will be paid to the Registrar of Voters and County Clerk-Recorder to place a new TEP on the March 2020 ballot. The proposed budget is summarized as follows:

	Budget	Total	Funds
Convey (Agreement No. 468)	\$700,000	\$2.6 million	Measure C Reserves
Future Agreement for PPM Consultant	\$400,000		
Registrar of Voters and County Clerk- Recorder	\$1.5 million		
Kittelson (Agreement No. 278)	\$200,000	\$350,000	Measure J Transportation Planning
Placeworks (Agreement No. 465)	\$50,000		
Future Agreement for Economic Analysis	\$100,000		
Total Budget	\$2.95 million		

Public Opinion Research Update

At its March 2019 Authority Board meeting, the Authority directed staff to conduct public opinion research concurrently with the development of a new TEP Work Plan. On behalf of the Authority, EMC Research has completed the public opinion research and will provide an update at the meeting.

Exhibit CC



Contra Costa County Voter Survey Conducted for Contra Costa Transportation Authority

Executive Summary

Presented to CCTA Board – May 15, 2019

Appellant's MJN 000033

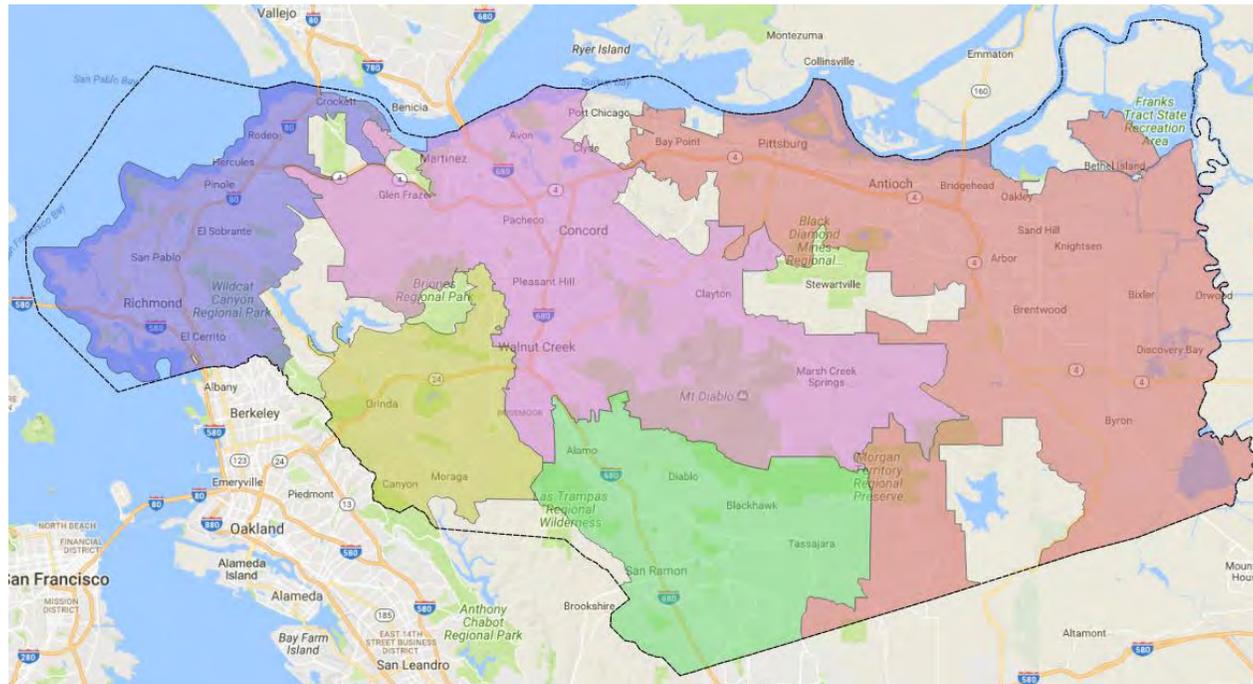
- ▶ Hybrid email-to-web and live telephone survey of likely March 2020 voters
- ▶ Survey conducted May 1-9, 2019
- ▶ 1,333 interviews; effective overall margin of error ± 3.2 percentage points
- ▶ Split sample methodology used to test two different styles of ballot questions, both for the same rate, term, and revenue raised:
 - Sample A; Traditional ballot question, similar to format of Measure X: 678 interviews; effective MoE ± 4.6 percentage points
 - Sample B; Outcomes-focused ballot question, with more emphasis on potential outcomes: 655 interviews; effective MoE ± 4.4 percentage points
 - Samples balanced to control for demographic and attitudinal differences
- ▶ Where applicable, results compared with past research in the county
- ▶ Weighted to reflect overall countywide likely March 2020 voter population on key demographics

Please note that due to rounding, some percentages may not add up to exactly 100%.

Appellant's MJN 000034

Region

Region	Number of Interviews	Margin of Error (+/-)	Weighted % of Population
Central	309	5.6	32%
East	295	5.7	23%
Lamorinda	244	6.3	9%
San Ramon Valley	211	6.7	15%
West	274	5.9	21%



- Central
- East
- Lamorinda
- San Ramon Valley
- West
- Contra Costa County Border

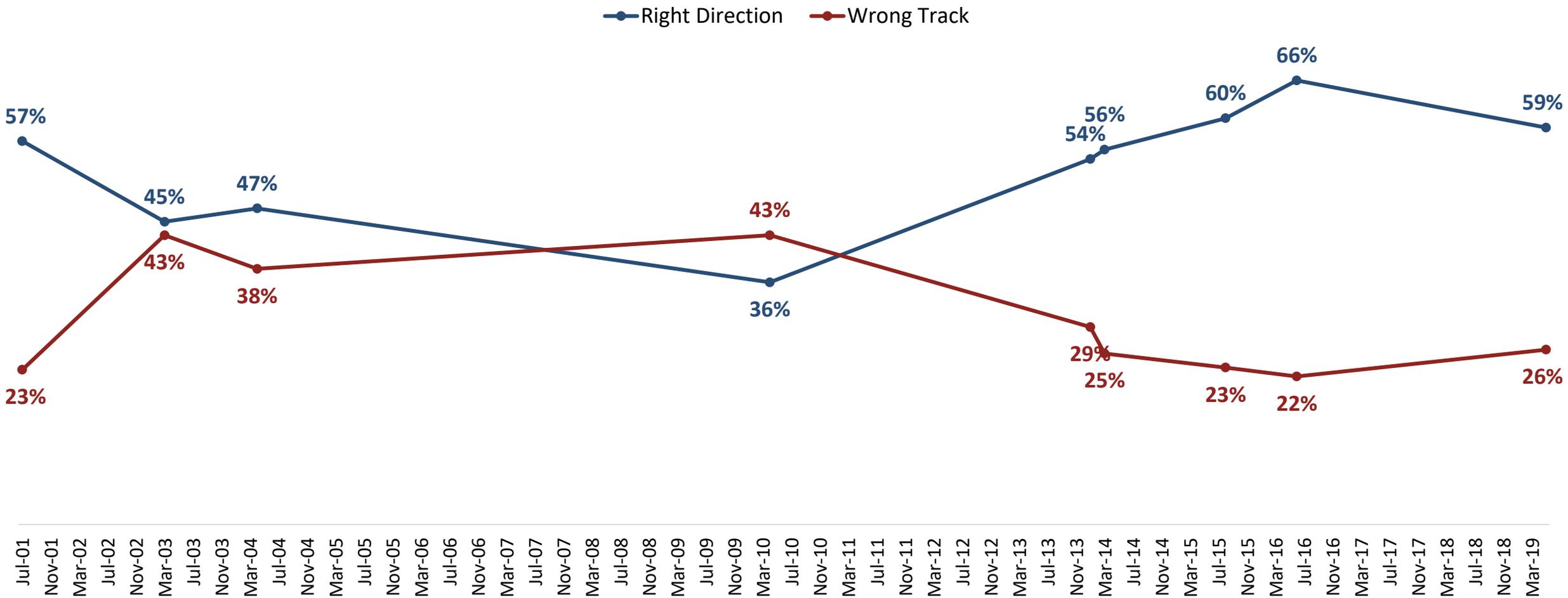
Key Findings

- ▶ Awareness of the need for local transportation funding remains high, even with concerns about housing on the rise.
- ▶ A potential half cent sales tax measure for transportation improvements in Contra Costa County is supported by nearly two-thirds of likely voters.
 - Congestion reduction and improvements to public transit, including BART, are the elements that generate the most interest.
 - Support is highest in West County and Lamorinda, and lowest in the San Ramon Valley.
- ▶ Voters have some concern that transportation tax revenues do not always benefit them; strong accountability that requires expenditures show real benefits is a very attractive component.
- ▶ An outcomes-focused measure fares better than a traditional project/program oriented format once additional information is presented that emphasizes the project and program elements.
 - The outcomes-oriented model is also more resistant to opposition messaging.

Contra Costa County: Right Direction/Wrong Track



While most voters still feel optimistic about the direction of the County, optimism has declined some since 2016.

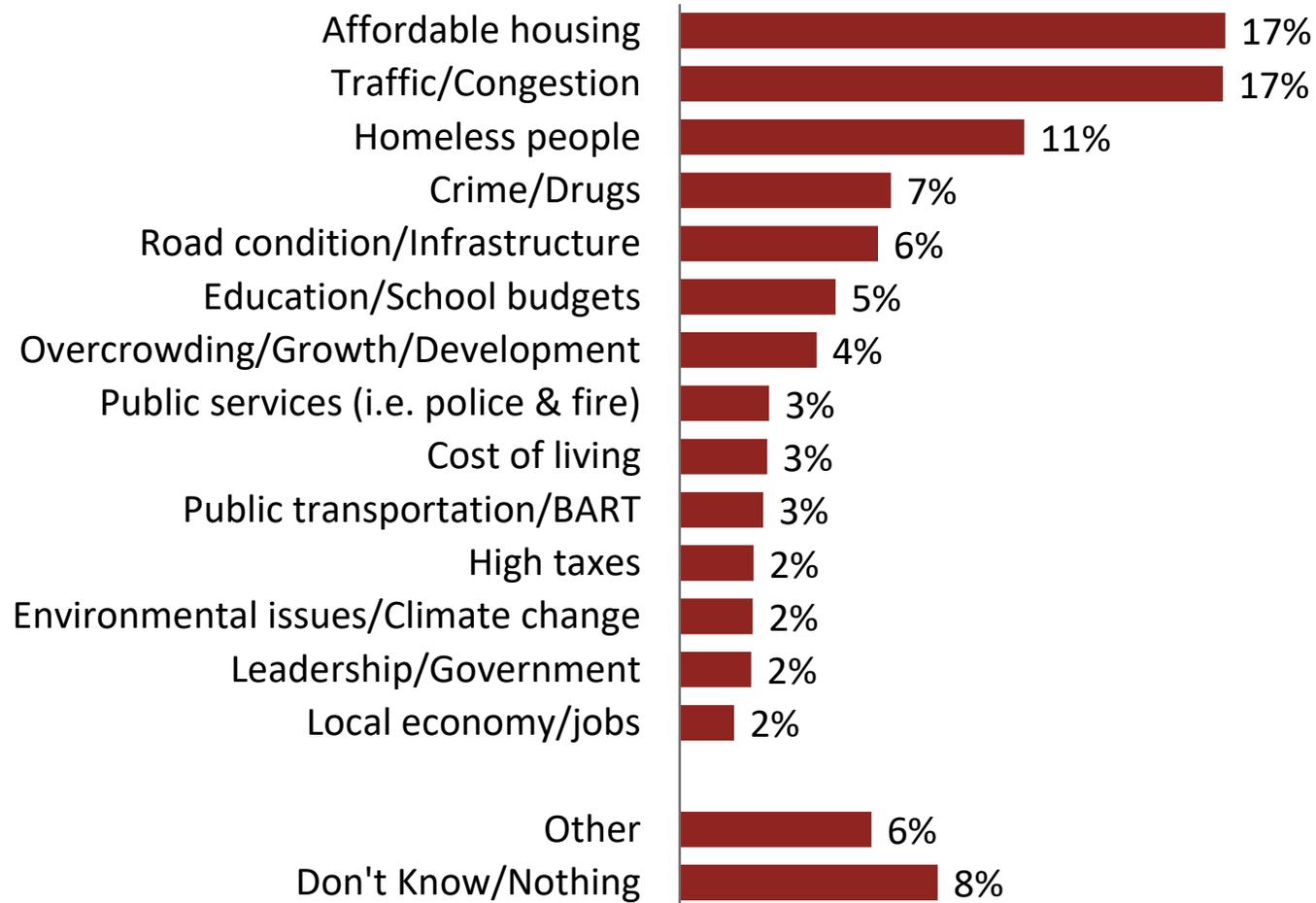


Q4. Do you feel that things in Contra Costa County are generally going in the right direction or do you feel things have gotten pretty seriously off on the wrong track?

Appellant's MJN 000037

Contra Costa County: Most Important Problem

Concerns about housing affordability and homelessness are growing, but traffic and roads are still top of mind.

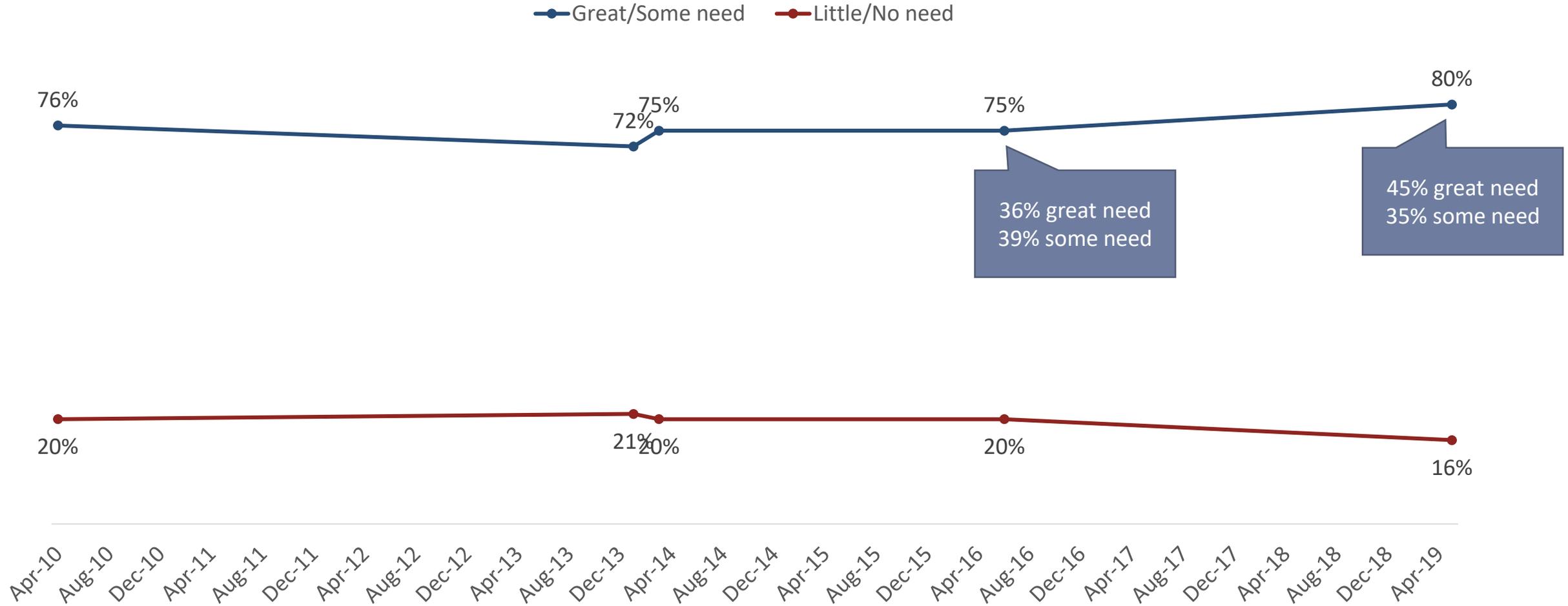


September 2015:

Traffic/transportation	16%
Water	12%
Crime/safety	11%
Education/schools	8%
Road conditions	6%
Overpopulation/development	5%
Housing availability/affordability	5%
Government spending	4%
Homelessness	4%

Need for Transportation Funding

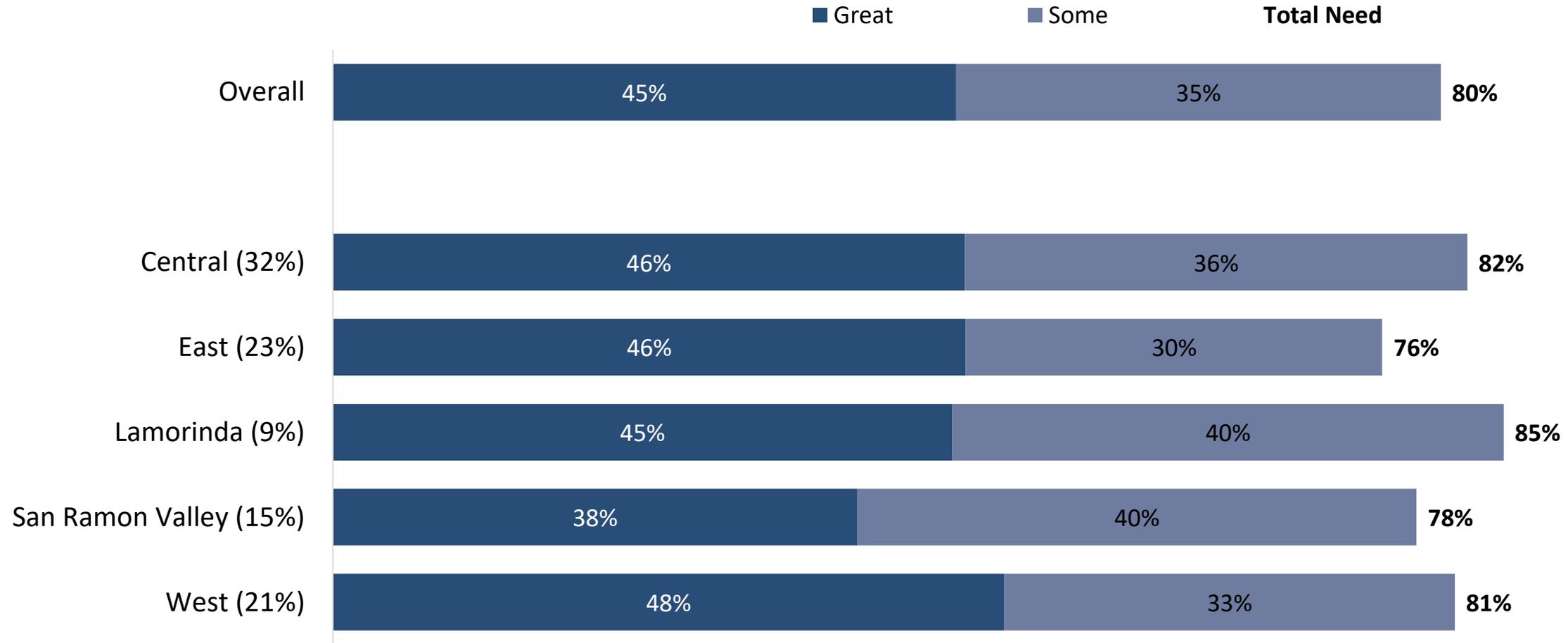
Perceived need for transportation funding has risen since 2016, and intensity is growing.



Q6. Thinking about the roads, highways, BART, buses, ferries, bike paths, and sidewalks in Contra Costa County, that is, the entire county transportation network, would you say that there is a great need for additional funding, some need, a little need, or no real need for additional funding?

Need for Transportation Funding by Region

Perception of need for funding is pervasive across the county, though intensity is lowest in the San Ramon Valley.

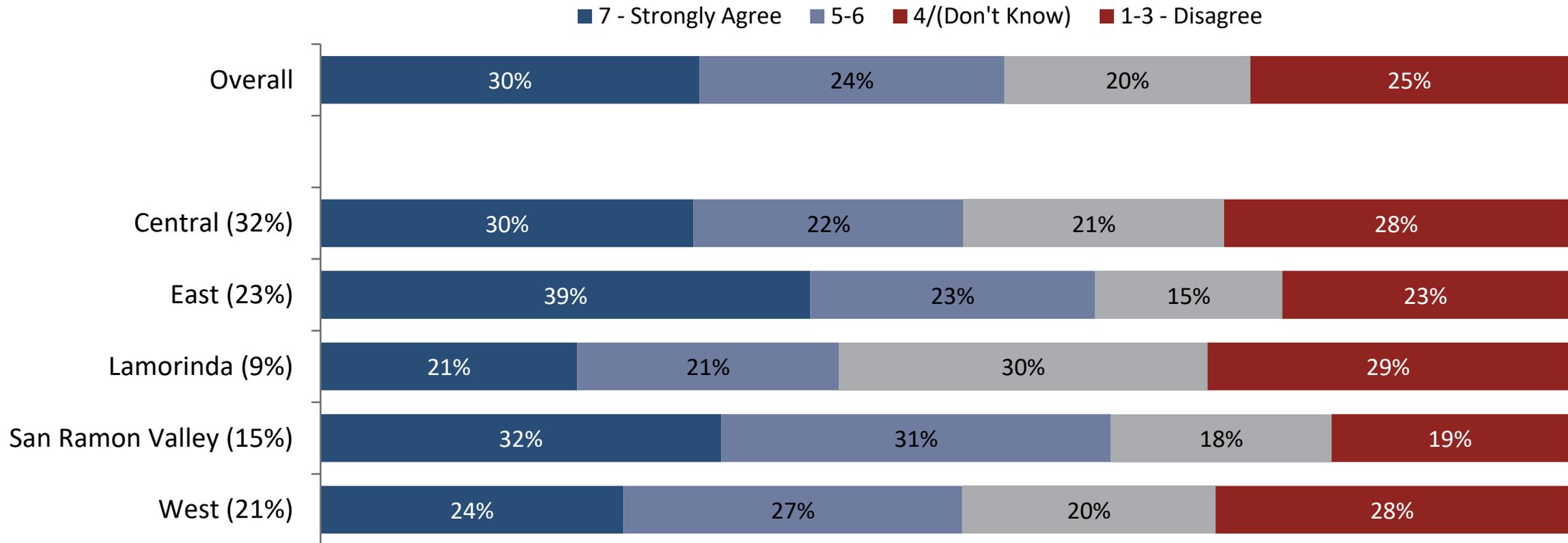


Q6. Thinking about the roads, highways, BART, buses, ferries, bike paths, and sidewalks in Contra Costa County, that is, the entire county transportation network, would you say that there is a great need for additional funding, some need, a little need, or no real need for additional funding?

Perception of Tax Waste By Region

Voters in East County and the San Ramon Valley are the most likely to feel transportation tax dollars are spent on things that don't benefit them.

Most of the taxes I currently pay for local transportation improvements are wasted on things that don't benefit people like me.



Q17. Next, I'm going to read you some statements. Please rate how much you agree with them on a scale of 1 to 7, where 1 means you strongly disagree, and 7 means you strongly agree.

Initial Vote: Traditional Ballot Question

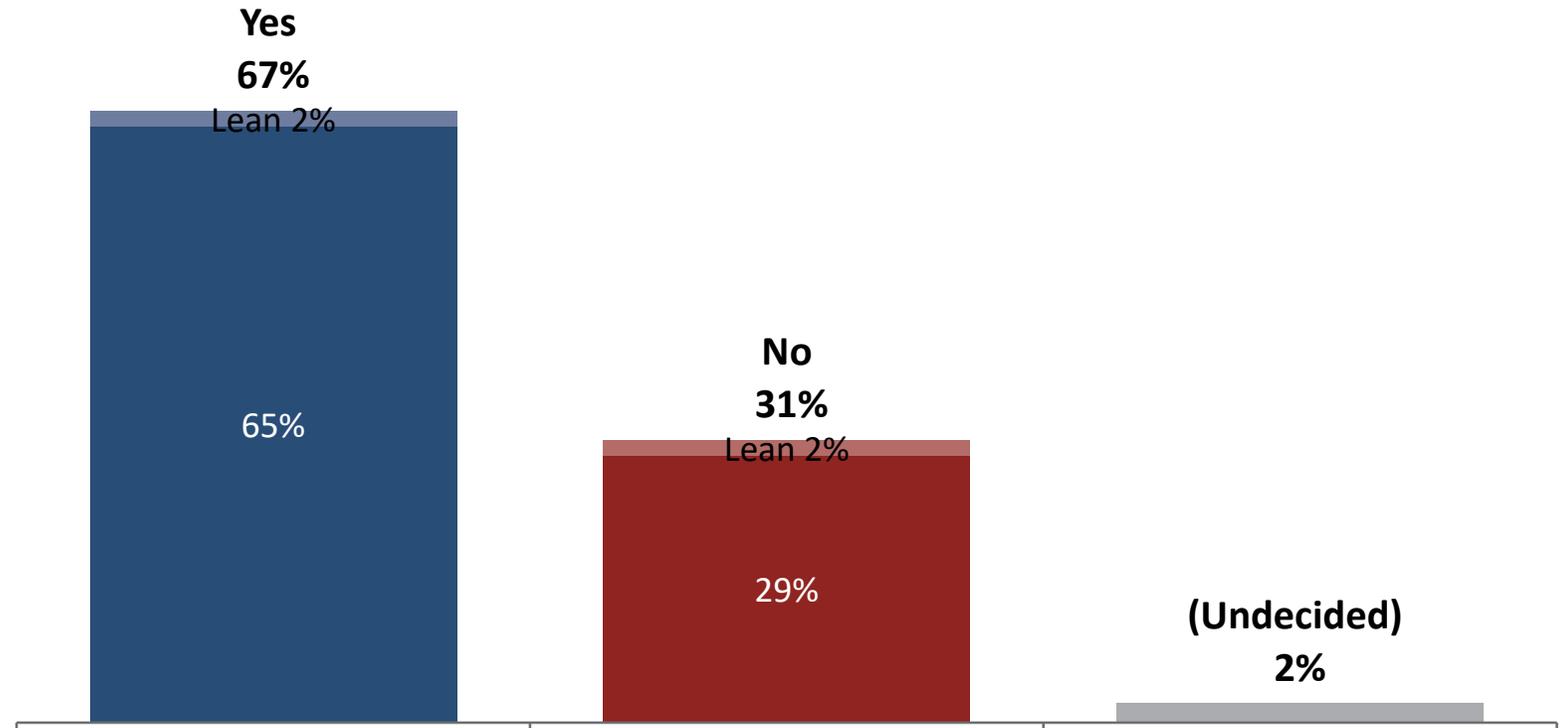
A potential half cent sales tax measure for transportation that lists out the projects and programs that would be funded is supported by nearly two-thirds of the county's voters.

n=678

To implement a 30-Year Transportation Improvement Plan to:

- Reduce congestion on Highways 680, 80, 24, and 4;
- Improve BART safety, cleanliness, and access;
- Enhance ferry/bus transit, including for seniors, veterans, people with disabilities, students;
- Improve bicycle/pedestrian safety;
- Improve air quality;
- Fix potholes;

shall the ordinance levying a 1/2 cent sales tax, providing an estimated \$97 million for transportation annually that the state cannot take, requiring funds directly benefit Contra Costa County residents/commuters be adopted?



Initial Vote: Outcomes-Focused Ballot Question

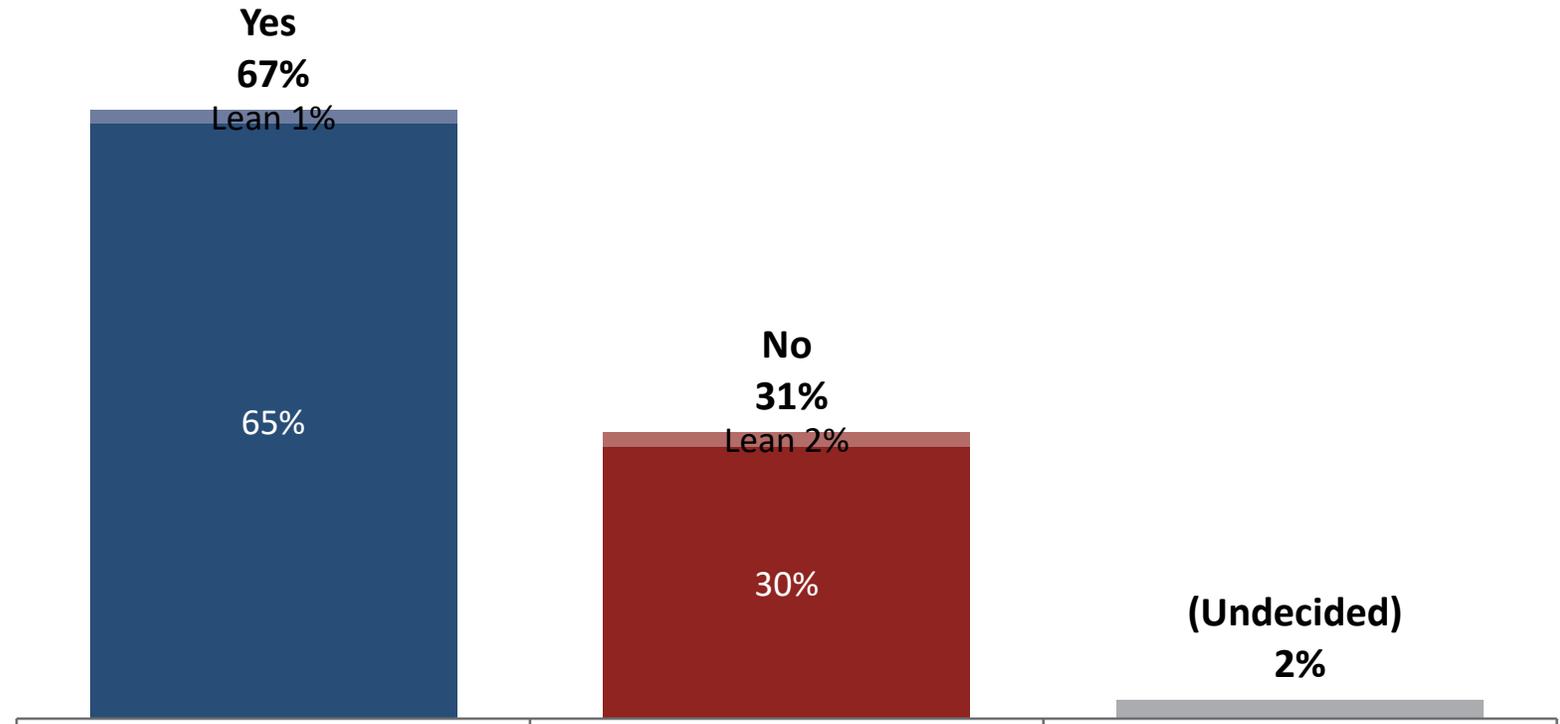
A potential half cent sales tax measure that focuses more on the outcomes is also supported by nearly two-thirds of voters.

n=655

To:

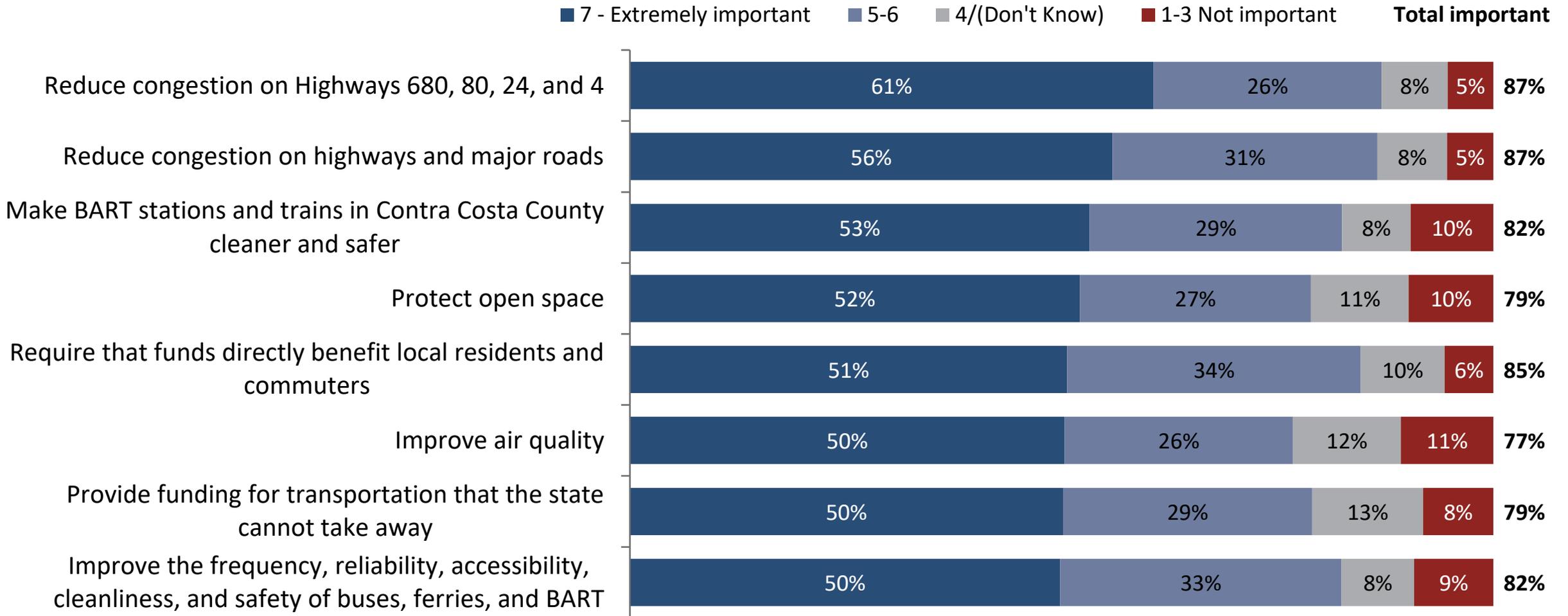
- Reduce congestion on highways and major roads;
- Make commutes faster and more predictable;
- Improve the frequency, reliability, accessibility, cleanliness, and safety of buses, ferries, and BART;
- Make biking/walking safer;
- Improve air quality;
- Fix potholes;

shall the ordinance implementing a 30-Year Transportation Improvement Plan, levying a 1/2 cent sales tax, providing an estimated \$97 million for transportation annually that the state cannot take, requiring funds directly benefit Contra Costa County residents/commuters be adopted?



Top Potential Measure Elements

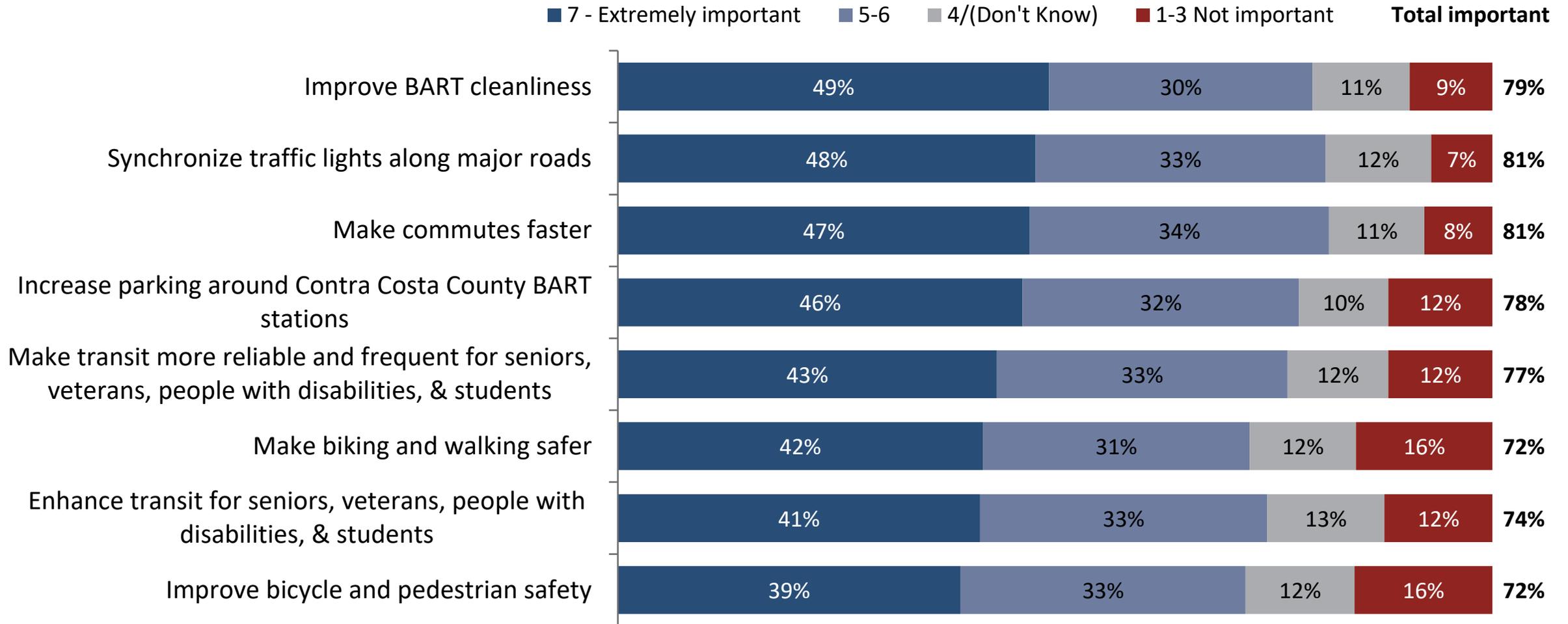
Top-tier elements include congestion reduction, BART and other transit improvements, and environmental protections. Requiring funds directly benefit local residents and commuters is a key feature.



Q19-43. Next, I'd like to read you some items that may be included in this measure. After each one, please rate how important it is to you that it is included in the measure, using a scale of 1 to 7, where 1 means not at all important, and 7 means extremely important.

Potential Measure Elements (cont.)

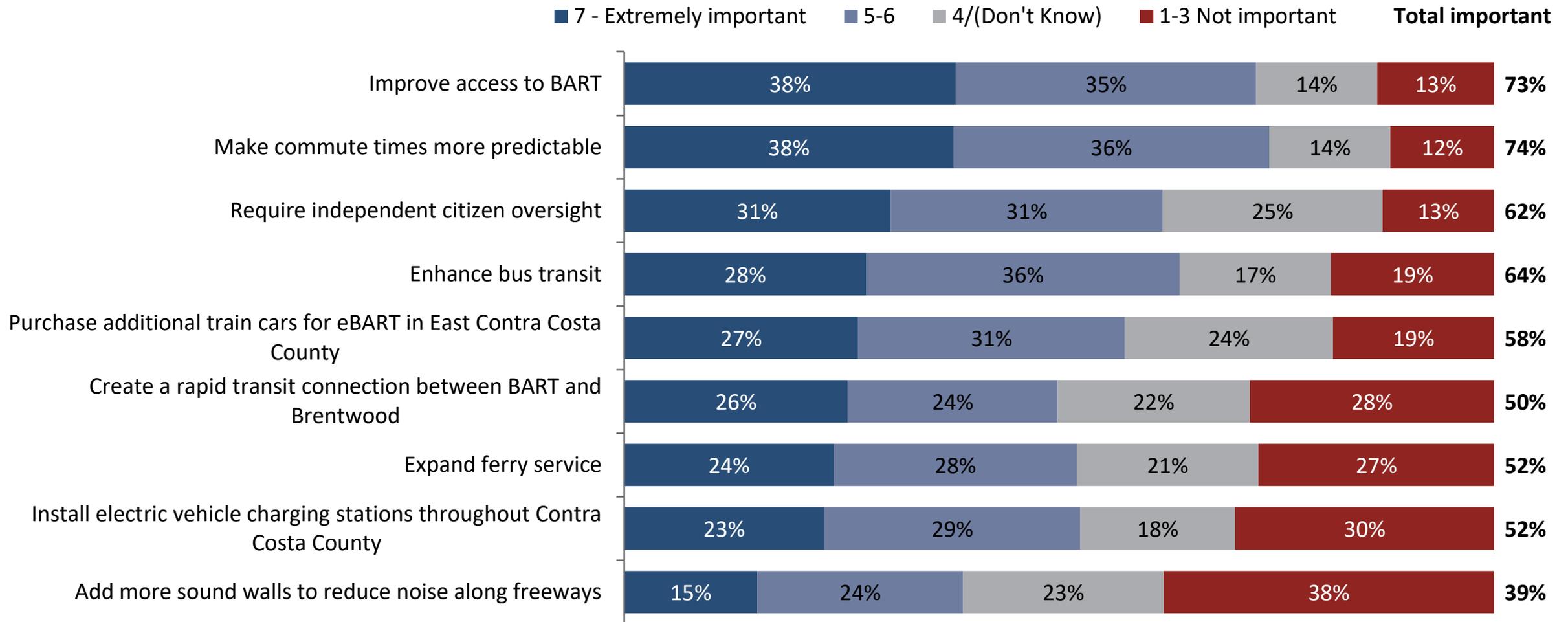
BART parking, better transit for seniors, veterans, people with disabilities, and students, and bike/ped improvements also hold appeal.



Q19-43. Next, I'd like to read you some items that may be included in this measure. After each one, please rate how important it is to you that it is included in the measure, using a scale of 1 to 7, where 1 means not at all important, and 7 means extremely important.

Potential Measure Elements (cont.)

Some other elements have a narrower audience.



Q19-43. Next, I'd like to read you some items that may be included in this measure. After each one, please rate how important it is to you that it is included in the measure, using a scale of 1 to 7, where 1 means not at all important, and 7 means extremely important.

Top % Important by Region

Central

Reduce congestion on Highways 680, 80, 24, and 4	90%
Reduce congestion on highways and major roads	87%
Require that funds directly benefit local residents and commuters	87%
Make BART stations and trains in Contra Costa County cleaner and safer	85%
Improve the frequency, reliability, accessibility, cleanliness, and safety of buses, ferries, and BART	84%

Lamorinda

Improve the frequency, reliability, accessibility, cleanliness, and safety of buses, ferries, and BART	87%
Reduce congestion on highways and major roads	85%
Reduce congestion on Highways 680, 80, 24, and 4	84%
Improve BART cleanliness	83%
Make BART stations and trains in Contra Costa County cleaner and safer	81%
Increase parking around Contra Costa County BART stations	81%

East

Require that funds directly benefit local residents and commuters	89%
Reduce congestion on highways and major roads	88%
Reduce congestion on Highways 680, 80, 24, and 4	87%
Make commutes faster	85%
Make BART stations and trains in Contra Costa County cleaner and safer	82%
Synchronize traffic lights along major roads	82%

San Ramon Valley

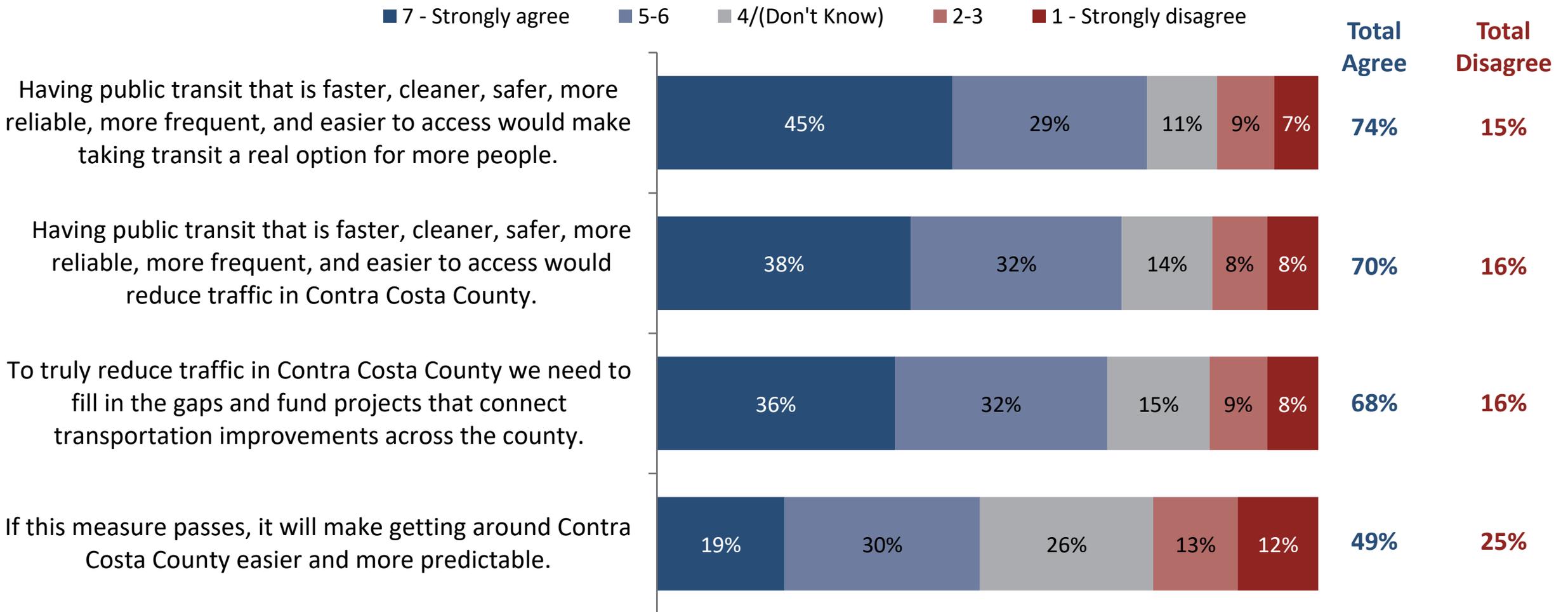
Reduce congestion on Highways 680, 80, 24, and 4	90%
Reduce congestion on highways and major roads	87%
Increase parking around Contra Costa County BART stations	83%
Make commutes faster	82%
Make BART stations and trains in Contra Costa County cleaner and safer	81%
Require that funds directly benefit local residents and commuters	81%

West

Reduce congestion on highways and major roads	84%
Improve the frequency, reliability, accessibility, cleanliness, and safety of buses, ferries, and BART	83%
Improve air quality	83%
Reduce congestion on Highways 680, 80, 24, and 4	82%
Make commutes faster	82%
Require that funds directly benefit local residents and commuters	82%

Attitudes Toward Potential Measure Outcomes

Strong majorities agree improving transit would make it a more viable option and reduce traffic; voters are less convinced the measure will make getting around easier.

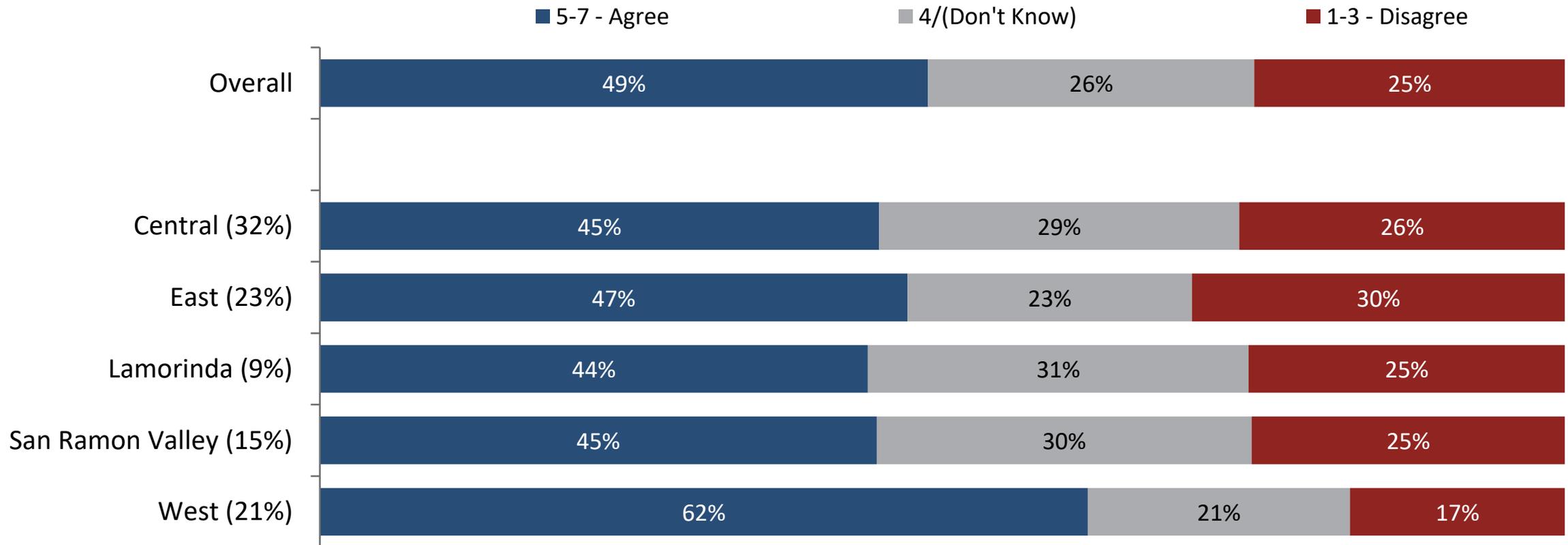


Q9-17. Next, I'm going to read you some statements. Please rate how much you agree with them on a scale of 1 to 7, where 1 means you strongly disagree, and 7 means you strongly agree.

Measure Impact by Region

Voters in West County are the most likely to believe the measure will make getting around easier.

If this measure passes, it will make getting around Contra Costa County easier and more predictable.



Q11. Next, I'm going to read you some statements. Please rate how much you agree with them on a scale of 1 to 7, where 1 means you strongly disagree, and 7 means you strongly agree.

Transportation Improvement Funding Forced Choice

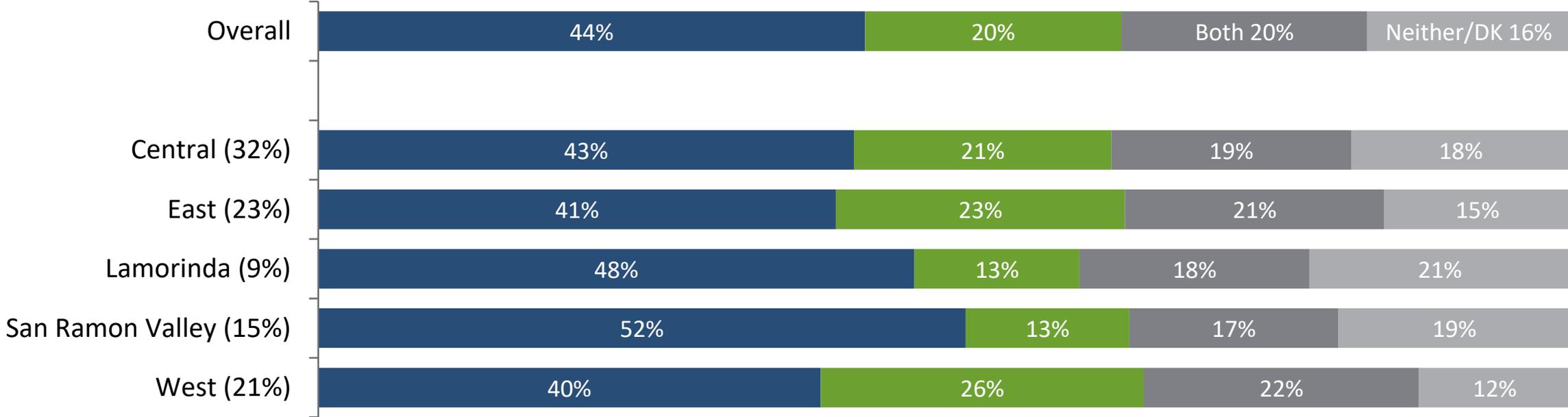


A plurality prioritize funding a smaller number of major projects in the most congested parts of the County over making minor improvements all over.

Thinking about a measure to improve transportation in Contra Costa County, is it more important to fund...

A smaller number of major improvements focused on the most congested parts of the County

A larger number of minor improvements in communities all over the County



Top Measure Information

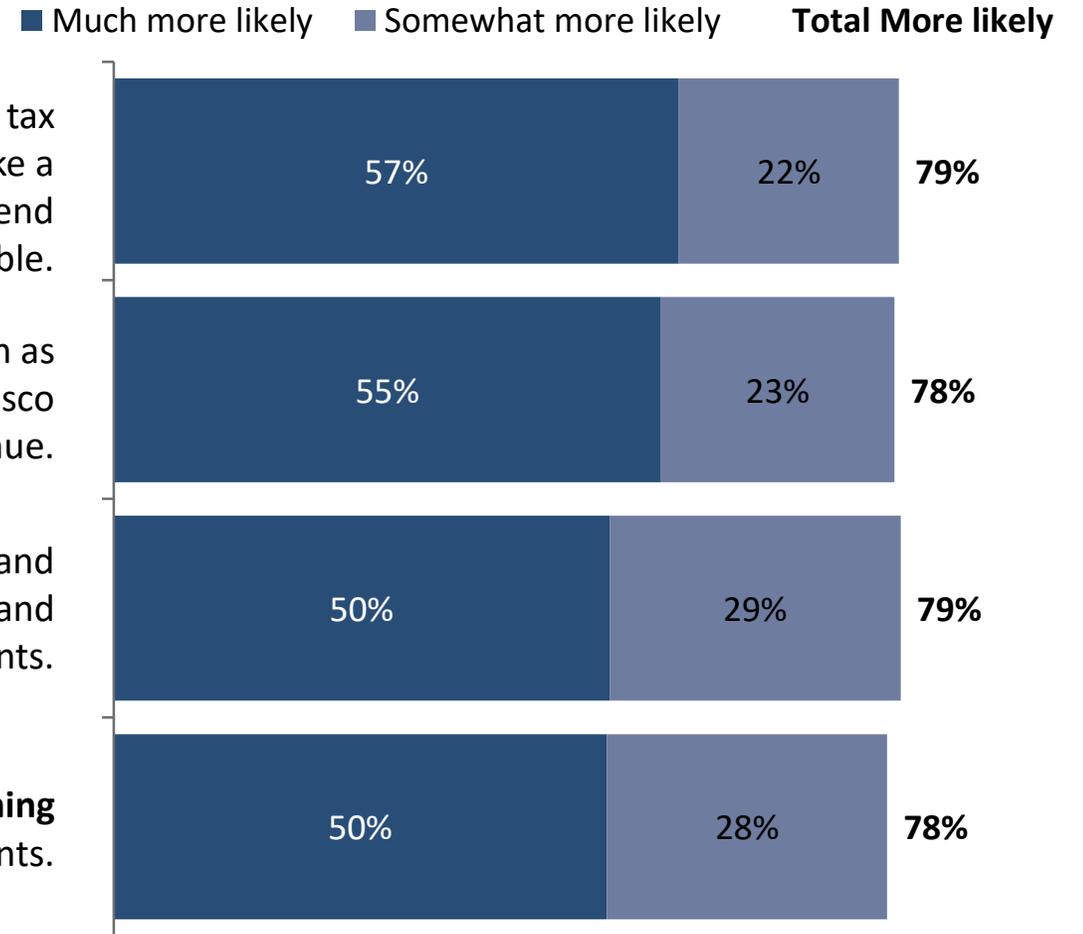
Voters like the idea of an accountability mechanism that requires funds go to things that impact congestion.

This measure will make our elected officials **accountable** for how they spend our tax money by requiring proof that anything that is funded with the revenue will make a real impact on congestion in Contra Costa County. They will not be allowed to spend any money on things that don't make our commutes faster and more predictable.

This measure will focus improvements in areas with the **worst bottlenecks**, such as Highways 680, 80, 24, and 4, as well as Ygnacio Valley Road, Kirker Pass Road, Vasco Road, San Pablo Dam Road, and Central Avenue.

This measure uses **technology** that makes getting around faster, easier, safer, and more reliable, like synchronized traffic lights to keep traffic moving, on-demand shuttles to BART, and smart freeway signs to steer drivers around accidents.

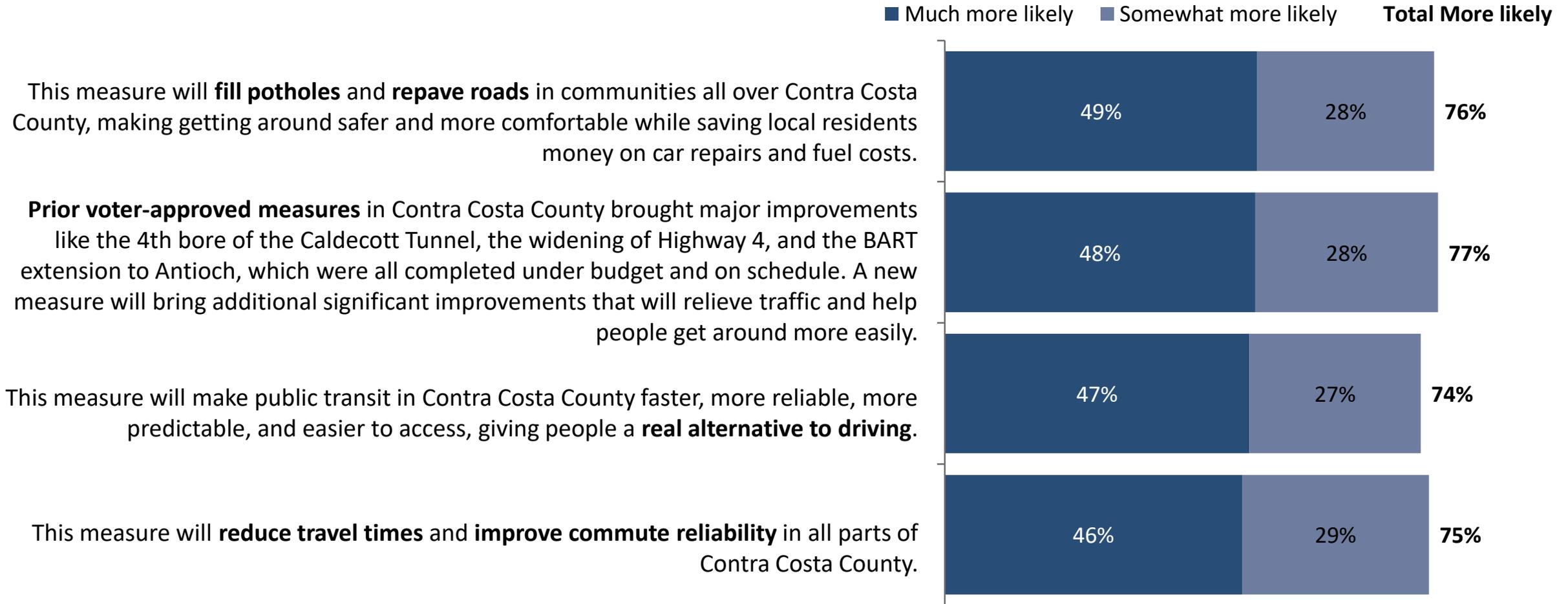
This measure allows Contra Costa County to qualify for state and federal **matching funds**, providing more money for badly-needed local transportation improvements.



Q44-58. Next, I'd like to read you some things people might say about the about the Contra Costa County Transportation Improvement Plan. After you hear each statement, please tell me if it makes you much more likely, somewhat more likely, somewhat less likely, or much less likely to support the measure, or if it makes no difference.

Measure Information (cont.)

Other information themes are also compelling, but with less intensity.



Q44-58. Next, I'd like to read you some things people might say about the about the Contra Costa County Transportation Improvement Plan. After you hear each statement, please tell me if it makes you much more likely, somewhat more likely, somewhat less likely, or much less likely to support the measure, or if it makes no difference.

Measure Information (cont.)

Focusing on BART or bus improvements are appealing to a narrower segment of voters.

■ Much more likely ■ Somewhat more likely **Total More likely**

This measure will make **significant improvements to BART** in Contra Costa County by increasing safety and cleanliness at local stations and on trains, helping expand BART in East County, and increasing access to BART stations with things like additional nearby parking, improved bike and scooter shares, on-demand shuttles, and discounted Uber and Lyft rides.



This measure **protects open space** by imposing severe penalties on jurisdictions if they approve housing beyond a voter approved boundary line.



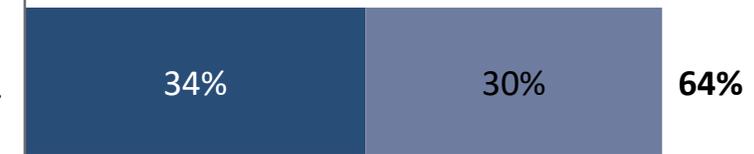
This measure will help to **address climate change** and **improve air quality** by reducing the number of cars on the road, encouraging the use of zero-emission vehicles, and installing a network of electric vehicle charging stations.



This measure addresses **the next 30 years** of transportation planning in Contra Costa County by investing in things that will help with today's problems while providing the flexibility needed to take advantage of future innovations.



This measure will **make bus travel faster and more reliable** by creating lanes on major roads and freeways that allow buses to bypass slow or stopped traffic, something that already works in other parts of the country.



Q44-58. Next, I'd like to read you some things people might say about the about the Contra Costa County Transportation Improvement Plan. After you hear each statement, please tell me if it makes you much more likely, somewhat more likely, somewhat less likely, or much less likely to support the measure, or if it makes no difference.

Measure Information: Split Sample

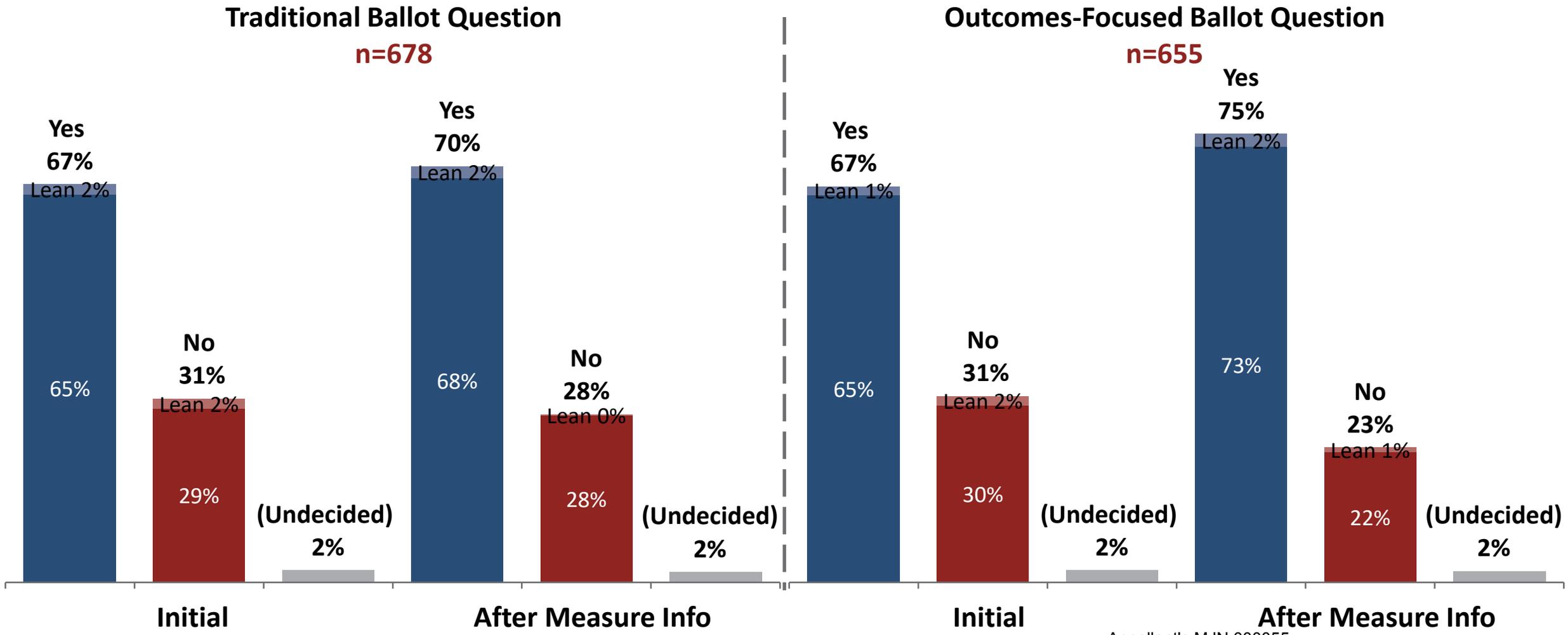
Filling in information about projects and programs is more compelling to those who heard the outcomes model than filling in information about outcomes is to those who heard about projects and programs first.

Population	Initial vote	Additional information given	Much more likely to support	Somewhat more likely to support	Total more likely to support
Sample A: Traditional Measure (n=678)	67% yes	This measure will reduce congestion on highways and major roads; make commutes faster and more predictable; improve the frequency, reliability, accessibility, cleanliness, and safety of buses, ferries, and BART; make biking and walking safer; improve air quality; and fix potholes.	48%	28%	76%
Sample B: Outcomes-Focused Measure (n=655)	67% yes	This measure will reduce congestion on Highways 680, 80, 24, and 4; improve BART safety, cleanliness, and access; enhance ferry and bus transit, including for seniors, veterans, people with disabilities, and students; improve bicycle and pedestrian safety; improve air quality; and fix potholes.	58%	22%	81%

Q44-58. Next, I'd like to read you some things people might say about the about the Contra Costa County Transportation Improvement Plan. After you hear each statement, please tell me if it makes you much more likely, somewhat more likely, somewhat less likely, or much less likely to support the measure, or if it makes no difference.

After Measure Information

Following more information about the potential measure, the outcomes-focused question sees a larger increase in support.



Appellant's MJN 000055

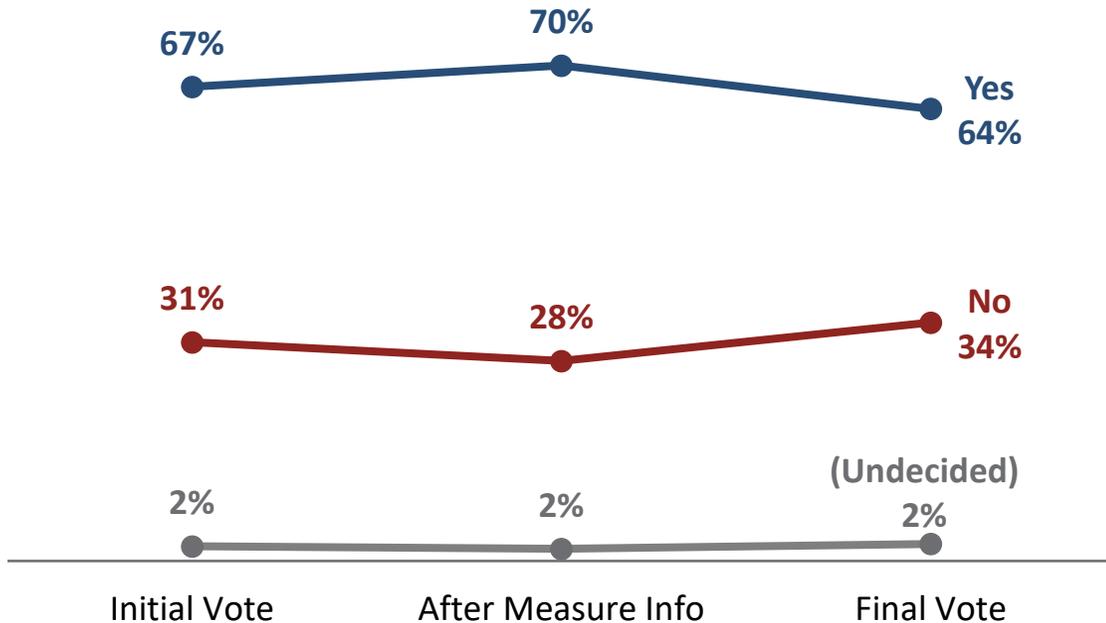
Final Vote

Hearing a strongly-worded rebuttal has a similar impact on support for both potential measures.

There are people who say that we just can't afford another tax in this area when so many families are already struggling to stay in their homes. We keep passing measures to make traffic and transit better, like the gas taxes and bridge tolls, but everything just keeps getting worse. It's time to stop throwing money at wasteful government agencies. Our transportation system is too badly broken and mismanaged, and no amount of taxpayer dollars can keep up with our growing population and make any real difference in our traffic and transit problems.

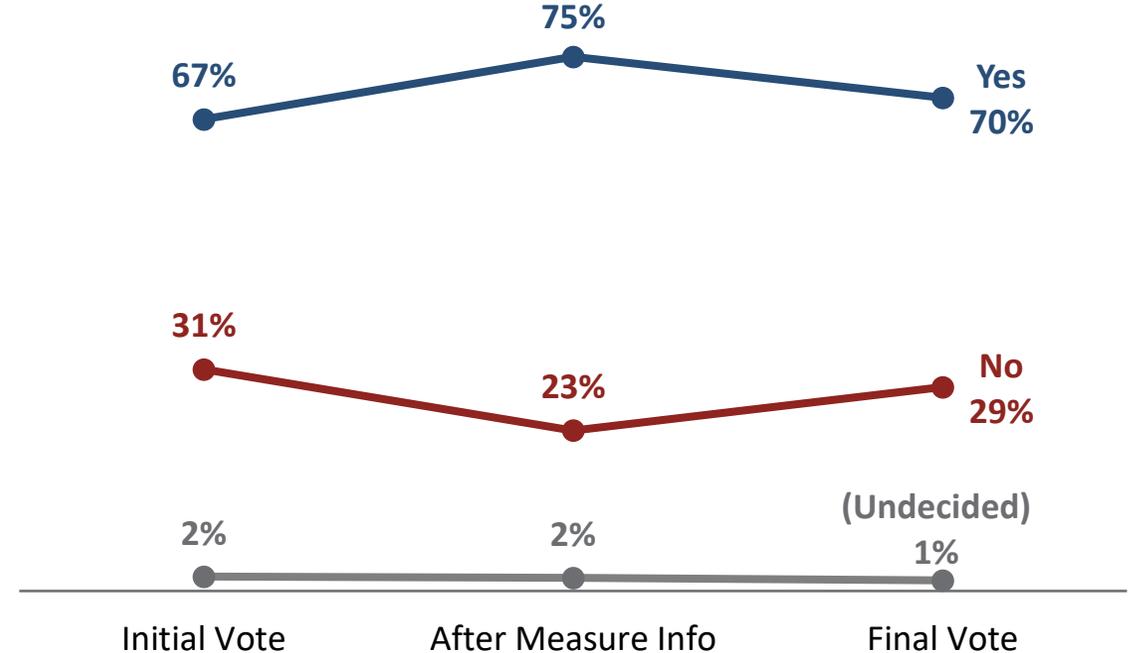
Traditional Ballot Question

n=678



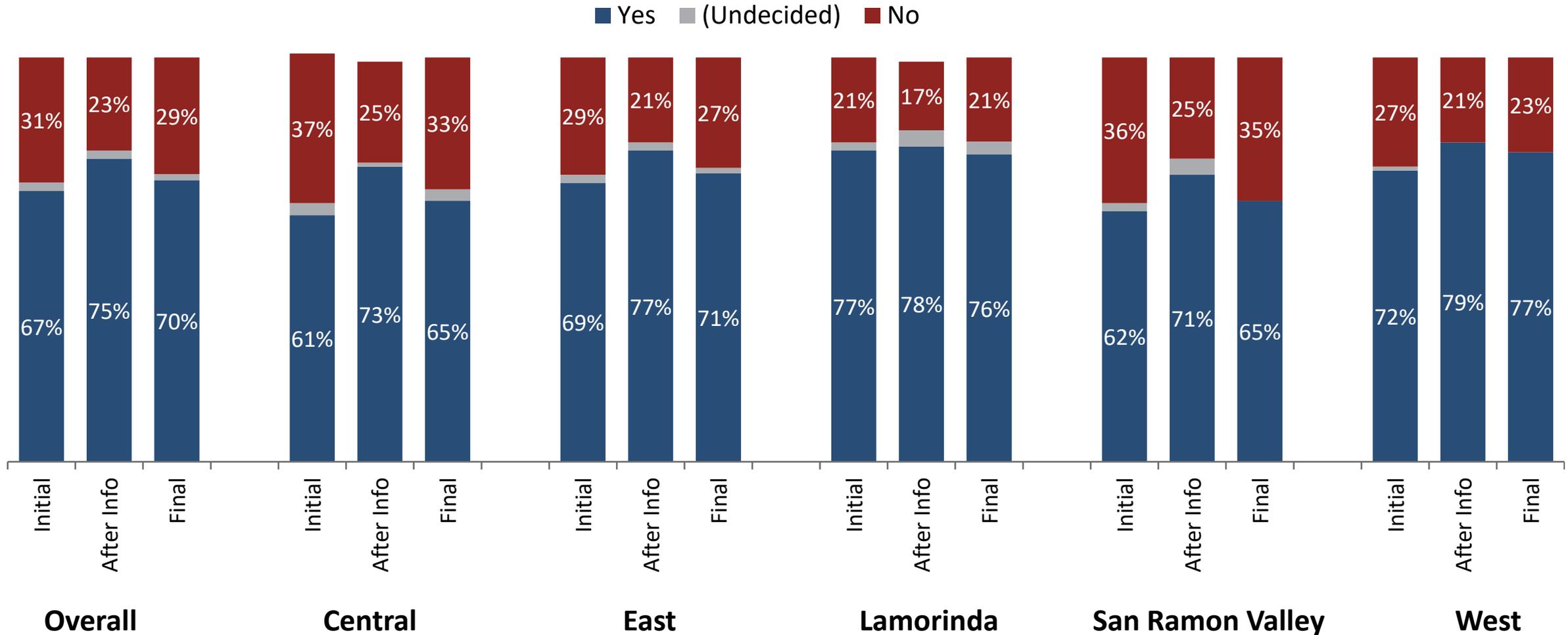
Outcomes-Focused Ballot Question

n=655



Final Potential Vote by Region: Outcomes

An outcomes-focused question is more resilient to opposition in all regions of the county.



Appellant's MJN 000057

Conclusions

- ▶ There is significant demand for congestion relief and public transit improvements for Contra Costa County.
- ▶ Likely March 2020 voters are receptive to a potential half cent local transportation sales tax measure to fund those outcomes.
- ▶ Strong and specific accountability provisions that require funds benefit Contra Costa County residents and commuters may help voters overcome concerns about increasing taxes.
- ▶ A robust communications effort will be needed to create the right environment to be successful.



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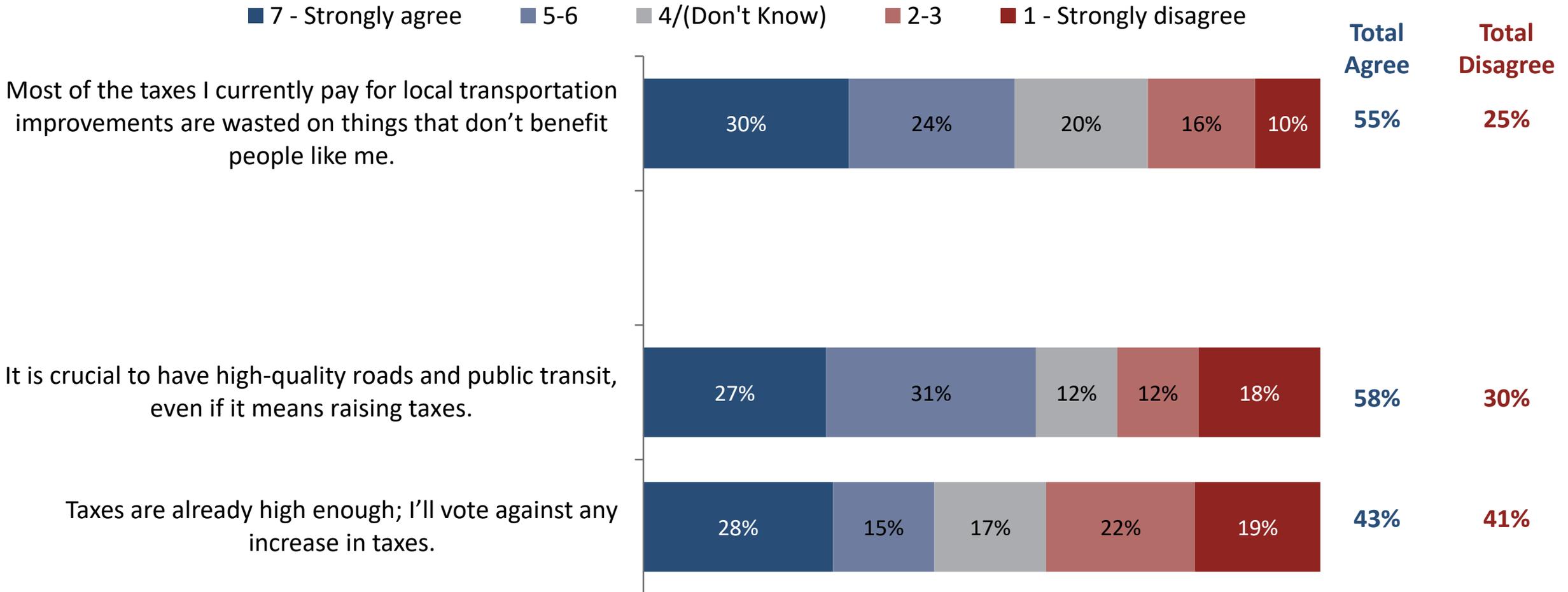
510.550.8921



Appendix

Tax Attitudes

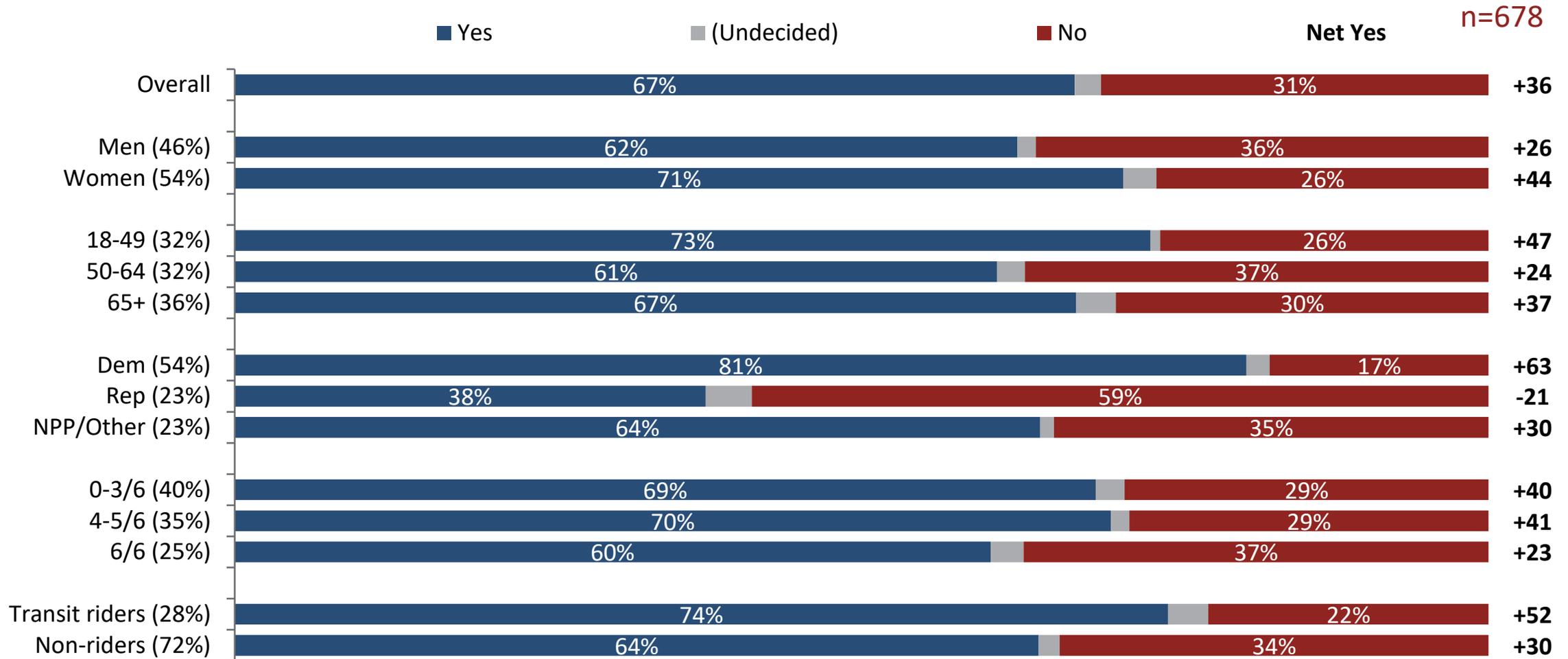
There is some concern that local transportation funding gets wasted; a majority feel high-quality roads and transit may be worth increasing taxes.



Q9-17. Next, I'm going to read you some statements. Please rate how much you agree with them on a scale of 1 to 7, where 1 means you strongly disagree, and 7 means you strongly agree.

Initial Vote: Traditional Ballot Question by Demos

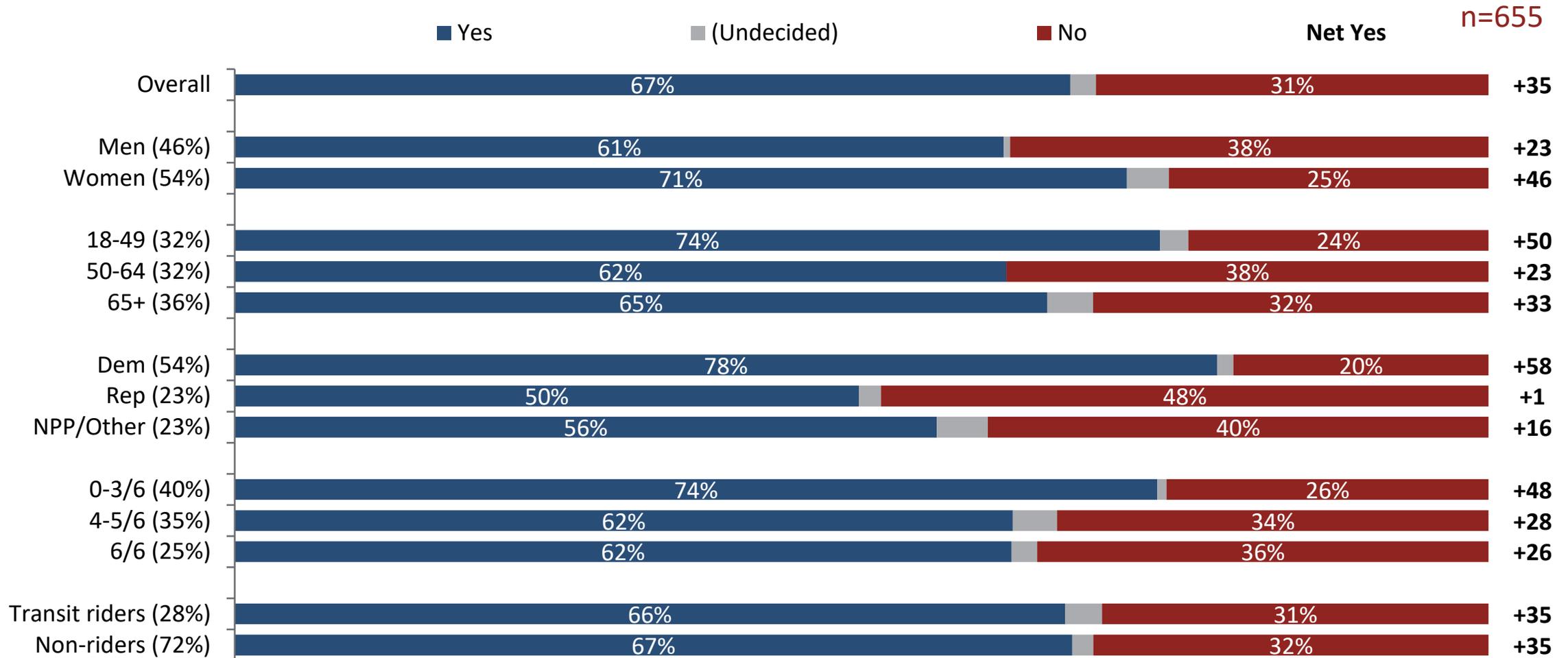
Democrats and young voters are very supportive of a potential sales tax measure.



n=678

Initial Vote: Outcomes-Focused Ballot Question by Demos

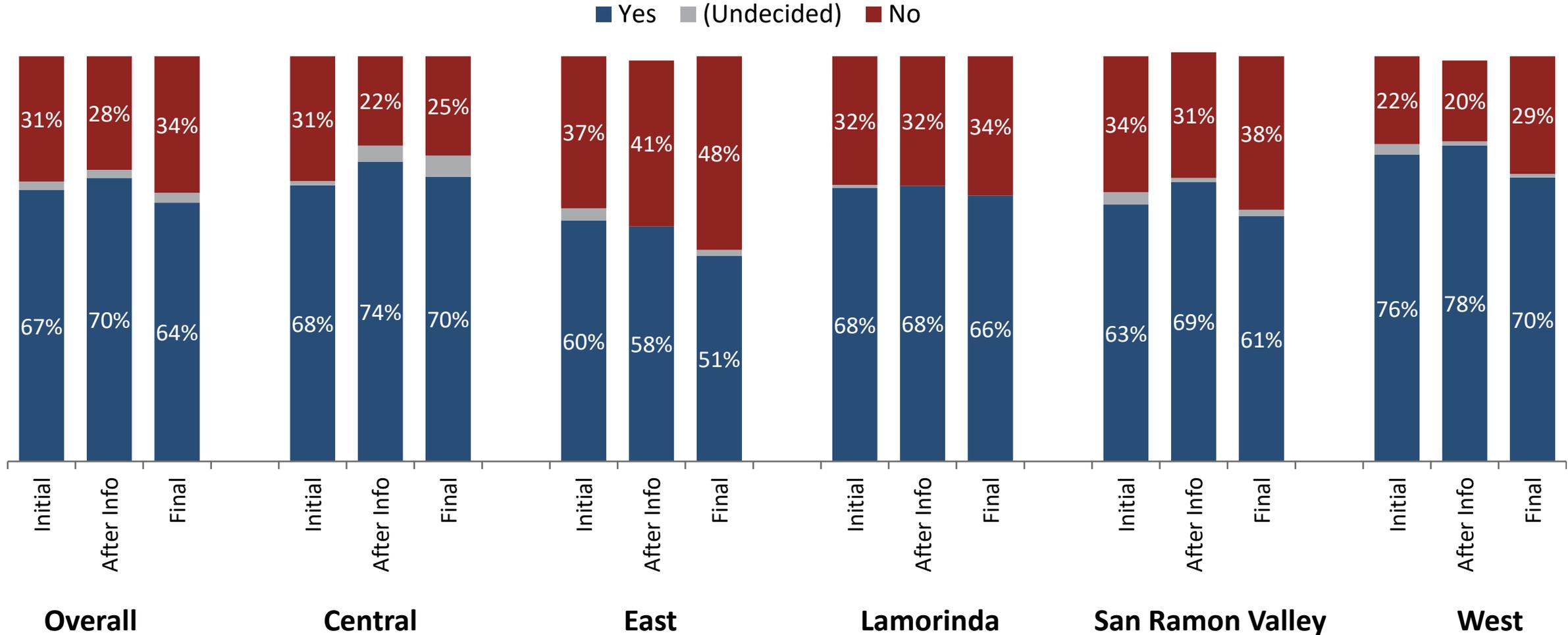
Republicans are slightly more supportive of an outcomes-focused ballot question.



n=655

Final Potential Vote by Region: Traditional

A traditional model measure shows some vulnerability to opposition across the county.



Appellant's MJN 000064