

AMENDED IN ASSEMBLY JULY 27, 2004

Senate Constitutional Amendment

No. 4

Introduced by Senator ~~Brulte~~ Torlakson

February 6, 2003

Senate Constitutional Amendment No. 4—A resolution to propose to the people of the State of California an amendment to the ~~Constitution of the State, by amending Section 10 of Article V thereof, relating to the Governor.~~ *Constitution of the State, by amending Section 15 of Article XI thereof, by adding Section 25.5 to Article XIII thereof, and by amending Section 6 of Article XIII B thereof, relating to local government finance.*

LEGISLATIVE COUNSEL'S DIGEST

SCA 4, as amended, ~~Brulte~~ Torlakson. ~~Gubernatorial succession~~
Local government finance.

(1) The California Constitution requires that specified revenues derived under the Vehicle License Fee (VLF) Law be allocated among the counties and cities of the state according to statute. Existing statute requires that a specified percentage of the revenues derived under the VLF Law be deposited in the Local Revenue Fund in the State Treasury for allocation among counties and cities for specified purposes.

This measure would require those revenues derived under the VLF Law from that portion of the vehicle license fee rate that does not exceed 0.65% of the market value of a vehicle to be deposited in an amount specified by that law in the Local Revenue Fund for allocation to cities, counties, and cities and counties, and the balance of that portion to be allocated among those entities as otherwise provided by law. This measure would also require that compensating allocations be made if

a statute reduces the annual vehicle license fee below 0.65% of the market value of a vehicle.

(2) Existing property tax law requires the county auditor, in each fiscal year, to allocate property tax revenue among local jurisdictions in accordance with specified formulas and procedures, and generally requires that each jurisdiction be allocated an amount equal to the total of the amount of revenue allocated to that jurisdiction in the prior fiscal year, subject to certain modifications, and that jurisdiction's portion of the annual tax increment, as defined.

This measure would prohibit the Legislature from enacting a statute that modifies the manner of apportioning ad valorem property tax revenues so as to reduce the percentage of the total amount of ad valorem property tax revenues that are collected countywide and allocated among all local agencies, as defined, in a county below the percentage that these agencies would receive under the law in effect on the operative date of this measure. This measure would authorize the suspension of this prohibition for a fiscal year, if certain conditions are met. This measure would, except as otherwise provided by another provision of this measure, also prohibit the Legislature from enacting a statute that changes for any fiscal year the pro rata shares in which ad valorem property tax revenues are allocated among local agencies in a county, other than by a bill approved by a $\frac{2}{3}$ vote of the membership of each house of the Legislature.

(3) The Bradley-Burns Uniform Local Sales and Use Tax Law authorizes a county to impose a local sales and use tax at a rate of 1.25%, and similarly authorizes a city, located within a county imposing such a tax rate, to impose a local sales tax rate of 1% that is credited against the county rate. Beginning on July 1, 2004, and continuing through the revenue exchange period, as defined, existing law partially suspends the authority of a city or a county to impose a sales and use tax rate under the Bradley-Burns Law. Existing law also authorizes various local governmental entities to impose transaction and use taxes at various rates for various purposes.

This measure would prohibit the Legislature, except as otherwise provided by this measure, from restricting the tax rate authority of local governments under the laws described above, and from changing the method of distributing revenues derived under those laws. This measure would also prohibit the Legislature from extending beyond the revenue exchange period the partial suspension of the Bradley-Burns Law tax



rate authority, and from reducing certain property tax revenue allocations related to that suspension.

This measure would also allow the Legislature, by statute, to authorize 2 or more local agencies, with the approval of the governing body of each of those agencies, to enter into a contract for the exchange of property tax revenue allocations for revenues derived under the Bradley-Burns Law.

(4) Under the California Constitution, whenever the Legislature or a state agency mandates a new program or higher level of service on any local government, the state is required to provide a subvention of funds to reimburse the local government, with specified exceptions. Existing statutory law establishes a procedure for local government agencies to file claims for reimbursement of these costs with the Commission on State Mandates and the Controller.

This measure would provide that for the 2005–06 fiscal year and every subsequent fiscal year, with respect to a mandate for which the costs of a city, county, city and county, or special district claim previously have been determined to be payable by the state pursuant to law, the Legislature shall either appropriate, in the annual Budget Act, the full payable amount that has not been previously paid, or suspend the operation of the mandate in the current fiscal year. The measure would also provide that payable claims for costs incurred prior to the 2004–05 fiscal year that have not been paid prior to the 2005–06 fiscal year may be paid over a term of years, as prescribed by law.

The measure would also specify that a new program or higher level of service includes a transfer by the Legislature of complete or partial financial responsibility for a required program from the state to cities, counties, cities and counties, or special districts. This measure would also state that ad valorem property tax revenues may not be used to reimburse a local government for the costs of a new program or higher level of service.

(5) This measure would also declare that this measure supersedes Proposition 65 on the November 2, 2004, general election ballot, if both measures are approved and this measure receives a higher number of affirmative votes.

~~The California Constitution requires the Lieutenant Governor to act as the Governor of the state during impeachment, absence from the state, or other temporary disability of the Governor or of a Governor-elect who fails to take office.~~



~~This measure would delete “absence from the State, or other temporary disability” and instead would require that the Lieutenant Governor act as the Governor of the state during impeachment or temporary disability of the Governor or of a Governor-elect who fails to take office.~~

Vote: ²/₃. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

1 ~~WHEREAS, The California Constitution presently provides~~
2 ~~that the Lieutenant Governor serves as the Governor during the~~
3 ~~Governor’s absence from the state or other temporary disability;~~
4 ~~and~~

5 ~~WHEREAS, The California Supreme Court in In Re~~
6 ~~Governorship (1979) 26 Cal. 3d 110 has interpreted this to mean~~
7 ~~the physical nonpresence of the Governor and that this has been the~~
8 ~~interpretation of “absence from the state” since 1849; and~~

9 ~~WHEREAS, Modern conditions of travel, communication, and~~
10 ~~technology have eliminated the objections that the drafters of the~~
11 ~~early Constitution might have had to permitting the Governor to~~
12 ~~act from outside the state or to permitting postponement of~~
13 ~~gubernatorial actions until his or her return; and~~

14 ~~WHEREAS, Most travels by modern Governors are for official~~
15 ~~state purposes and involve formal meetings with federal officials,~~
16 ~~other out-of-state officials, or overseas investors when the state is~~
17 ~~seeking funding or participating in major joint-state or federal~~
18 ~~projects; now, therefore, be it~~

19 ~~*Resolved by the Senate, the Assembly concurring, That the*~~
20 ~~Legislature of the State of California at its 2003–04 Regular~~
21 ~~Session commencing on the second day of December 2002,~~
22 ~~two-thirds of the membership of each house concurring, hereby~~
23 ~~proposes to the people of the State of California that the~~
24 ~~Constitution of the State be amended by amending Section 10 of~~
25 ~~Article V thereof, to read:~~

26 ~~SEC. 10. The Lieutenant Governor shall become Governor~~
27 ~~when a vacancy occurs in the office of Governor.~~

28 ~~The Lieutenant Governor shall act as Governor during the~~
29 ~~impeachment or temporary disability of the Governor or of a~~
30 ~~Governor-elect who fails to take office.~~



1 ~~The Legislature shall provide an order of precedence after the~~
2 ~~Lieutenant Governor for succession to the office of Governor and~~
3 ~~for the temporary exercise of the Governor's functions.~~

4 ~~The Supreme Court has exclusive jurisdiction to determine all~~
5 ~~questions arising under this section.~~

6 ~~Standing to raise questions of vacancy or temporary disability~~
7 ~~is vested exclusively in a body provided by statute. as follows:~~

8 ~~First—That Section 15 of Article XI thereof is amended to read:~~

9 SEC. 15. (a) ~~All~~ *From the revenues derived from taxes*
10 *imposed pursuant to the Vehicle License Fee Law (Part 5*
11 *(commencing with Section 10701) of Division 2 of the Revenue and*
12 *Taxation Code), or its successor, other than fees on trailer coaches*
13 *and mobilehomes, over and above the costs of collection and any*
14 *refunds authorized by law, those revenues derived from that*
15 *portion of the vehicle license fee rate that does not exceed 0.65*
16 *percent of the market value of the vehicle shall be allocated to*
17 *counties and cities according to statute.*

18 ~~(b) This section shall apply to those taxes imposed pursuant to~~
19 ~~that law on and after July 1 following the approval of this section~~
20 ~~by the voters. as follows:~~

21 *(1) An amount shall be specified in the Vehicle License Fee*
22 *Law, or the successor to that law, for deposit in the State Treasury*
23 *to the credit of the Local Revenue Fund established in Chapter 6*
24 *(commencing with Section 17600) of Part 5 of Division 9 of the*
25 *Welfare and Institutions Code, or its successor, if any, for*
26 *allocation to cities, counties, and cities and counties as otherwise*
27 *provided by law.*

28 *(2) The balance shall be allocated to cities, counties, and cities*
29 *and counties as otherwise provided by law.*

30 *(b) If a statute enacted by the Legislature reduces the annual*
31 *vehicle license fee below 0.65 percent of the market value of a*
32 *vehicle, the Legislature shall, for each fiscal year for which that*
33 *reduced fee applies, provide by statute for the allocation of an*
34 *additional amount of money that is equal to the decrease, resulting*
35 *from the fee reduction, in the total amount of revenues that are*
36 *otherwise required to be deposited and allocated under*
37 *subdivision (a) for that same fiscal year. That amount shall be*
38 *allocated to cities, counties, and cities and counties in the same pro*
39 *rata amounts and for the same purposes as are revenues subject to*
40 *subdivision (a).*



1 *Second—That Section 25.5 is added to Article XIII thereof, to*
2 *read:*

3 *SEC. 25.5. (a) On or after November 3, 2004, the*
4 *Legislature shall not enact a statute to do any of the following:*

5 *(1) (A) Except as otherwise provided in subparagraph (B),*
6 *modify the manner in which ad valorem property tax revenues are*
7 *allocated in accordance with subdivision (a) of Section 1 of Article*
8 *XIII A so as to reduce for any fiscal year the percentage of the total*
9 *amount of ad valorem property tax revenues in a county that is*
10 *allocated among all of the local agencies in that county below the*
11 *percentage of the total amount of those revenues that would be*
12 *allocated among those agencies for the same fiscal year under the*
13 *statutes in effect on November 3, 2004. For purposes of this*
14 *subparagraph, “percentage” does not include any property tax*
15 *revenues referenced in paragraph (2).*

16 *(B) Beginning with the 2008–09 fiscal year and except as*
17 *otherwise provided in subparagraph (C), subparagraph (A) may*
18 *be suspended for a fiscal year if all of the following conditions are*
19 *met:*

20 *(i) The Governor issues a proclamation that declares that, due*
21 *to a severe state fiscal hardship, the suspension of subparagraph*
22 *(A) is necessary.*

23 *(ii) The Legislature enacts an urgency statute, pursuant to a bill*
24 *passed in each house of the Legislature by rollcall vote entered in*
25 *the journal, two-thirds of the membership concurring, that*
26 *contains a suspension of subparagraph (A) for that fiscal year and*
27 *does not contain any other provision.*

28 *(iii) No later than the effective date of the statute described in*
29 *clause (ii), a statute is enacted that provides for the full repayment*
30 *to local agencies of the total amount of revenue losses, including*
31 *interest as provided by law, resulting from the modification of ad*
32 *valorem property tax revenue allocations to local agencies. This*
33 *full repayment shall be made not later than the end of the third*
34 *fiscal year immediately following the fiscal year to which the*
35 *modification applies.*

36 *(C) (i) Subparagraph (A) shall not be suspended for more than*
37 *two fiscal years during any period of 10 consecutive fiscal years,*
38 *which period begins with the first fiscal year for which*
39 *subparagraph (A) is suspended.*



1 (ii) Subparagraph (A) shall not be suspended during any fiscal
2 year if the full repayment required by a statute enacted in
3 accordance with clause (iii) of subparagraph (B) has not yet been
4 completed.

5 (iii) Subparagraph (A) shall not be suspended during any fiscal
6 year if the amount that was required to be paid to cities, counties,
7 and cities and counties under Section 10754.11 of the Revenue and
8 Taxation Code, as that section read on November 3, 2004, has not
9 been paid in full prior to the effective date of the statute providing
10 for that suspension as described in clause (ii) of subparagraph (B).

11 (iv) A suspension of subparagraph (A) shall not result in a total
12 ad valorem property tax revenue loss to all local agencies within
13 a county that exceeds 8 percent of the total amount of ad valorem
14 property tax revenues that were allocated among all local agencies
15 within that county for the fiscal year immediately preceding the
16 fiscal year for which subparagraph (A) is suspended.

17 (2) (A) Except as otherwise provided in subparagraphs (B)
18 and (C), restrict the authority of a city, county, or city and county
19 to impose a tax rate under, or change the method of distributing
20 revenues derived under, the Bradley-Burns Uniform Local Sales
21 and Use Tax Law set forth in Part 1.5 (commencing with Section
22 7200) of Division 2 of the Revenue and Taxation Code, as that law
23 read on November 3, 2004. The restriction imposed by this
24 subparagraph also applies to the entitlement of a city, county, or
25 city and county to the change in tax rate resulting from the end of
26 the revenue exchange period, as defined in Section 7203.1 of the
27 Revenue and Taxation Code as that section read on November 3,
28 2004.

29 (B) The Legislature may change by statute the method of
30 distributing the revenues derived under a use tax imposed pursuant
31 to the Bradley-Burns Uniform Local Sales and Use Tax Law to
32 allow the State to participate in an interstate compact or to comply
33 with federal law.

34 (C) The Legislature may authorize by statute two or more
35 specifically identified local agencies within a county, with the
36 approval of the governing body of each of those agencies, to enter
37 into a contract to exchange allocations of ad valorem property tax
38 revenues for revenues derived from a tax rate imposed under the
39 Bradley-Burns Uniform Local Sales and Use Tax Law. The
40 exchange under this subparagraph of revenues derived from a tax



1 rate imposed under that law shall not require voter approval for
2 the continued imposition of any portion of an existing tax rate from
3 which those revenues are derived.

4 (3) Except as otherwise provided in subparagraph (C) of
5 paragraph (2), change for any fiscal year the pro rata shares in
6 which ad valorem property tax revenues are allocated among local
7 agencies in a county other than pursuant to a bill passed in each
8 house of the Legislature by rollcall vote entered in the journal,
9 two-thirds of the membership concurring.

10 (4) Extend beyond the revenue exchange period, as defined in
11 Section 7203.1 of the Revenue and Taxation Code as that section
12 read on November 3, 2004, the suspension of the authority, set
13 forth in that section on that date, of a city, county, or city and
14 county to impose a sales and use tax rate under the Bradley-Burns
15 Uniform Local Sales and Use Tax Law.

16 (5) Reduce, during any period in which the rate authority
17 suspension described in paragraph (4) is operative, the payments
18 to a city, county, or city and county that are required by Section
19 97.68 of the Revenue and Taxation Code, as that section read on
20 November 3, 2004.

21 (6) Restrict the authority of a local entity to impose a
22 transactions and use tax rate in accordance with the Transactions
23 and Use Tax Law (Part 1.6 (commencing with Section 7251) of
24 Division 2 of the Revenue and Taxation Code), or change the
25 method for distributing revenues derived under a transaction and
26 use tax rate imposed under that law, as it read on November 3,
27 2004.

28 (b) For purposes of this section, the following definitions
29 apply:

30 (1) "Ad valorem property tax revenues" means all revenues
31 derived from the tax collected by a county under subdivision (a) of
32 Section 1 of Article XIII A, regardless of any of this revenue being
33 otherwise classified by statute.

34 (2) "Local agency" has the same meaning as specified in
35 Section 95 of the Revenue and Taxation Code as that section read
36 on November 3, 2004.

37 Third—That Section 6 of Article XIII B thereof, is amended to
38 read:

39 SEC. 6. (a) Whenever the Legislature or any state agency
40 mandates a new program or higher level of service on any local



1 government, the State shall provide a subvention of funds to
2 reimburse ~~such~~ that local government for the costs of ~~such~~ the
3 program or increased level of service, except that the Legislature
4 may, but need not, provide ~~such~~ a subvention of funds for the
5 following mandates:

6 ~~(a)~~

7 (1) Legislative mandates requested by the local agency
8 affected;

9 ~~(b)~~

10 (2) Legislation defining a new crime or changing an existing
11 definition of a crime; ~~or~~.

12 ~~(c)~~

13 (3) Legislative mandates enacted prior to January 1, 1975, or
14 executive orders or regulations initially implementing legislation
15 enacted prior to January 1, 1975.

16 (b) (1) *Except as provided in paragraph (2), for the 2005–06*
17 *fiscal year and every subsequent fiscal year, for a mandate for*
18 *which the costs of a local government claimant have been*
19 *determined in a preceding fiscal year to be payable by the State*
20 *pursuant to law, the Legislature shall either appropriate, in the*
21 *annual Budget Act, the full payable amount that has not been*
22 *previously paid, or suspend the operation of the mandate for the*
23 *fiscal year for which the annual Budget Act is applicable in a*
24 *manner prescribed by law.*

25 (2) *Payable claims for costs incurred prior to the 2004–05*
26 *fiscal year that have not been paid prior to the 2005–06 fiscal year*
27 *may be paid over a term of years, as prescribed by law.*

28 (3) *Ad valorem property tax revenues shall not be used to*
29 *reimburse a local government for the costs of a new program or*
30 *higher level of service.*

31 (4) *This subdivision applies to a mandate only as it affects a*
32 *city, county, city and county, or special district.*

33 (5) *This subdivision shall not apply to a requirement to provide*
34 *or recognize any procedural or substantive protection, right,*
35 *benefit, or employment status of any local government employee*
36 *or retiree, or of any local government employee organization, that*
37 *arises from, affects, or directly relates to future, current, or past*
38 *local government employment and that constitutes a mandate*
39 *subject to this section.*



1 (c) A mandated new program or higher level of service includes
2 a transfer by the Legislature from the State to cities, counties, cities
3 and counties, or special districts of complete or partial financial
4 responsibility for a required program for which the State
5 previously had complete or partial financial responsibility.
6 Fourth—That the people find and declare that this measure and
7 the Taxpayers and Public Safety Protection Act, which appears as
8 Proposition 65 on the November 2, 2004, general election ballot
9 (hereafter Proposition 65) both relate to local government,
10 including matters concerning tax revenues and reimbursement for
11 the cost of state mandates, in a comprehensive and substantively
12 conflicting manner. Because this measure is intended to be a
13 comprehensive and competing alternative to Proposition 65, it is
14 the intent of the people that this measure supersede in its entirety
15 Proposition 65, if this measure and Proposition 65 both are
16 approved and this measure receives a higher number of affirmative
17 votes than Proposition 65. Therefore, in the event that this measure
18 and Proposition 65 both are approved and this measure receives
19 a higher number of affirmative votes, none of the provisions of
20 Proposition 65 shall take effect.

