

## Senate Constitutional Amendment No. 4

### RESOLUTION CHAPTER 133

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 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.

[Filed with Secretary of State July 30, 2004.]

#### LEGISLATIVE COUNSEL'S DIGEST

SCA 4, Torlakson. 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.

*Resolved by the Senate, the Assembly concurring,* That the Legislature of the State of California at its 2003–04 Regular Session commencing on the second day of December 2002, two-thirds of the membership of each house concurring, hereby proposes to the people of the State of California that the Constitution of the State be amended as follows:

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

SEC. 15. (a) From the revenues derived from taxes imposed pursuant to the Vehicle License Fee Law (Part 5 (commencing with Section 10701) of Division 2 of the Revenue and Taxation Code), or its successor, other than fees on trailer coaches and mobilehomes, over and above the costs of collection and any refunds authorized by law, those revenues derived from that portion of the vehicle license fee rate that does not exceed 0.65 percent of the market value of the vehicle shall be allocated as follows:

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

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

(b) If a statute enacted by the Legislature reduces the annual vehicle license fee below 0.65 percent of the market value of a vehicle, the Legislature shall, for each fiscal year for which that reduced fee applies, provide by statute for the allocation of an additional amount of money that is equal to the decrease, resulting from the fee reduction, in the total



amount of revenues that are otherwise required to be deposited and allocated under subdivision (a) for that same fiscal year. That amount shall be allocated to cities, counties, and cities and counties in the same pro rata amounts and for the same purposes as are revenues subject to subdivision (a).

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

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

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

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

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

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

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

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

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



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

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

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

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

(C) The Legislature may authorize by statute two or more specifically identified local agencies within a county, with the approval of the governing body of each of those agencies, to enter into a contract to exchange allocations of ad valorem property tax revenues for revenues derived from a tax rate imposed under the Bradley-Burns Uniform Local Sales and Use Tax Law. The exchange under this subparagraph of revenues derived from a tax rate imposed under that law shall not require voter approval for the continued imposition of any portion of an existing tax rate from which those revenues are derived.

(3) Except as otherwise provided in subparagraph (C) of paragraph (2), change 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 pursuant to a bill passed in each house of the Legislature by rollcall vote entered in the journal, two-thirds of the membership concurring.



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

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

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

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

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

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

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

SEC. 6. (a) Whenever the Legislature or any state agency mandates a new program or higher level of service on any local government, the State shall provide a subvention of funds to reimburse that local government for the costs of the program or increased level of service, except that the Legislature may, but need not, provide a subvention of funds for the following mandates:

(1) Legislative mandates requested by the local agency affected.

(2) Legislation defining a new crime or changing an existing definition of a crime.

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

(b) (1) Except as provided in paragraph (2), for the 2005–06 fiscal year and every subsequent fiscal year, for a mandate for which the costs of a local government claimant have been determined in a preceding fiscal year 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 for the fiscal year for which the annual Budget Act is applicable in a manner prescribed by law.

(2) 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.

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

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

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

(c) A mandated new program or higher level of service includes a transfer by the Legislature from the State to cities, counties, cities and counties, or special districts of complete or partial financial responsibility for a required program for which the State previously had complete or partial financial responsibility.

Fourth—That the people find and declare that this measure and the Taxpayers and Public Safety Protection Act, which appears as Proposition 65 on the November 2, 2004, general election ballot (hereafter Proposition 65) both relate to local government, including matters concerning tax revenues and reimbursement for the cost of state mandates, in a comprehensive and substantively conflicting manner. Because this measure is intended to be a comprehensive and competing alternative to Proposition 65, it is the intent of the people that this measure supersede in its entirety Proposition 65, if this measure and Proposition 65 both are approved and this measure receives a higher number of affirmative votes than Proposition 65. Therefore, in the event that this measure and Proposition 65 both are approved and this measure receives a higher number of affirmative votes, none of the provisions of Proposition 65 shall take effect.

