

Assembly Constitutional Amendment No. 4

RESOLUTION CHAPTER 174

Assembly 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 12 of Article IV thereof, and by amending Section 20 of, and adding Section 21 to, Article XVI thereof, relating to state finance.

[Approved by Governor October 13, 2010. Filed with
Secretary of State October 13, 2010.]

LEGISLATIVE COUNSEL'S DIGEST

ACA 4, Gatto. State finance.

Existing provisions of the California Constitution require the Governor to submit to the Legislature, within the first 10 days of each calendar year, a proposed budget for the ensuing fiscal year containing itemized statements for recommended state expenditures and estimated state revenues. In addition, the Constitution prohibits the Legislature from passing, and the Governor from signing, a Budget Bill that would appropriate from the General Fund a total amount that, when combined with all appropriations from the General Fund for that fiscal year made as of the date of the Budget Bill's passage, and the amount of any General Fund moneys transferred to a reserve account, exceeds estimated General Fund revenues for that fiscal year. The estimate of General Fund revenues is required to be set forth in the Budget Bill.

This measure would require the Governor, in his or her proposed budget, to identify estimated total state resources available to meet recommended state expenditures and, further, to identify the amount of those resources that are anticipated to be one-time resources. The measure would prohibit passage of a Budget Bill that appropriates an amount that, when combined with prior appropriations and transfers to the reserve account, exceeds the estimate of General Fund revenues, transfers, and balances available from the prior fiscal year. The measure would require the estimate of General Fund revenues, transfers, and balances to be set forth in the Budget Bill.

Existing provisions of the California Constitution establish the Budget Stabilization Account in the General Fund and currently require the Controller, no later than September 30 of each year, to transfer from the General Fund to the account a sum equal to 3% of the estimated amount of General Fund revenues for the current fiscal year. This transfer of moneys is not required, unless otherwise directed by the Legislature by statute, in any fiscal year to the extent that the resulting balance in the account would exceed 5% of the General Fund revenues estimate set forth in the Budget Bill for that fiscal year, as enacted, or \$8,000,000,000, whichever is greater.

This transfer of moneys also may be suspended or reduced for a fiscal year as specified by an Executive order issued by the Governor no later than June 1 of the preceding fiscal year. Of the moneys transferred to the account in each fiscal year, 50%, up to an aggregate amount of \$5,000,000,000 for all fiscal years, is deposited in the Deficit Recovery Bond Retirement Sinking Fund Subaccount and continuously appropriated to the Treasurer for the purpose of retiring state deficit recovery bonds. All other moneys transferred to the account in a fiscal year are not deposited in the sinking fund subaccount and may, by statute, be transferred back to the General Fund.

This measure would rename this account the Budget Stabilization Fund. This measure would also provide that the transfer of moneys from the General Fund to the Budget Stabilization Fund is not required in any fiscal year to the extent that the resulting balance in the fund would exceed 10% of the General Fund revenues estimate set forth in the Budget Bill for that fiscal year, as enacted, and would delete the alternative \$8,000,000,000 limit on the fund. This measure would provide that, apart from a transfer made for the purpose of responding to an emergency declared by the Governor, as defined, or a loan to meet General Fund cash requirements which would be repaid within a fiscal year, the total amount that may be transferred from the Budget Stabilization Fund to the General Fund for any fiscal year shall not exceed the lesser of the shortfall amount for the current fiscal year, as defined, or 50% of the balance of the Budget Stabilization Fund, depending upon specified criteria.

In addition, this measure would create in the General Fund the Supplemental Budget Stabilization Account and would direct the Controller to transfer, on October 1 of each year beginning in 2013, from the Budget Stabilization Fund to the Supplemental Budget Stabilization Account a sum equal to 1.5% of the estimated amount of General Fund revenues for the current fiscal year, except that this transfer would not be made in a fiscal year for which the Governor issues an Executive order to suspend or reduce the transfer of moneys from the General Fund to the Budget Stabilization Fund. The measure would permit appropriations to be made from the Supplemental Budget Stabilization Account only for capital outlay purposes or to retire bonded indebtedness of the state.

This measure would require the Director of Finance, on or before May 29 of each year beginning in 2014, to report to the Legislature and the Governor (1) an estimate of the amount of General Fund revenues, transfers, and balances available from the prior fiscal year for the current fiscal year, (2) the revenue forecast amount, as defined, for the current fiscal year, and (3) an estimate of specified General Fund obligations for the public schools. The measure would provide that if, pursuant to a formula based on those figures, there are unanticipated revenues in the current fiscal year, beginning in the 2013–14 fiscal year, those revenues may be used only for specified purposes, and in a specified order of priority.

Resolved by the Assembly, the Senate concurring, That the Legislature of the State of California at its 2009–10 Regular Session commencing on

the first day of December 2008, 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 12 of Article IV thereof is amended to read:

SEC. 12. (a) Within the first 10 days of each calendar year, the Governor shall submit to the Legislature, with an explanatory message, a budget for the ensuing fiscal year containing itemized statements for recommended state expenditures and estimated total state resources available to meet those expenditures. If recommended expenditures exceed estimated resources, the Governor shall recommend the sources from which the additional resources should be provided. The itemized statement of estimated total state resources available to meet recommended expenditures submitted pursuant to this subdivision shall identify the amount, if any, of those resources that are anticipated to be one-time resources.

(b) The Governor and the Governor-elect may require a state agency, officer, or employee to furnish whatever information is deemed necessary to prepare the budget.

(c) (1) The budget shall be accompanied by a budget bill itemizing recommended expenditures.

(2) The budget bill shall be introduced immediately in each house by the persons chairing the committees that consider the budget.

(3) The Legislature shall pass the budget bill by midnight on June 15 of each year.

(4) Until the budget bill has been enacted, the Legislature shall not send to the Governor for consideration any bill appropriating funds for expenditure during the fiscal year for which the budget bill is to be enacted, except emergency bills recommended by the Governor or appropriations for the salaries and expenses of the Legislature.

(d) No bill except the budget bill may contain more than one item of appropriation, and that for one certain, expressed purpose. Appropriations from the General Fund of the State, except appropriations for the public schools, are void unless passed in each house by rollcall vote entered in the journal, two-thirds of the membership concurring.

(e) The Legislature may control the submission, approval, and enforcement of budgets and the filing of claims for all state agencies.

(f) For the 2004–05 fiscal year, or any subsequent fiscal year, the Legislature may not send to the Governor for consideration, nor may the Governor sign into law, a budget bill that would appropriate from the General Fund, for that fiscal year, a total amount that, when combined with all appropriations from the General Fund for that fiscal year made as of the date of the budget bill's passage, and the amount of any General Fund moneys transferred to the Budget Stabilization Fund for that fiscal year pursuant to Section 20 of Article XVI, exceeds General Fund revenues, transfers, and balances available from the prior fiscal year for that fiscal year estimated as of the date of the budget bill's passage. That estimate of General Fund revenues, transfers, and balances shall be set forth in the budget bill passed by the Legislature.

Second—That Section 12 of Article IV thereof, as amended by Proposition 25 at the November 2, 2010, statewide general election, is amended to read:

SEC. 12. (a) Within the first 10 days of each calendar year, the Governor shall submit to the Legislature, with an explanatory message, a budget for the ensuing fiscal year containing itemized statements for recommended state expenditures and estimated total state resources available to meet those expenditures. If recommended expenditures exceed estimated resources, the Governor shall recommend the sources from which the additional resources should be provided. The itemized statement of estimated total state resources available to meet recommended expenditures submitted pursuant to this subdivision shall identify the amount, if any, of those resources that are anticipated to be one-time resources.

(b) The Governor and the Governor-elect may require a state agency, officer, or employee to furnish whatever information is deemed necessary to prepare the budget.

(c) (1) The budget shall be accompanied by a budget bill itemizing recommended expenditures.

(2) The budget bill shall be introduced immediately in each house by the persons chairing the committees that consider the budget.

(3) The Legislature shall pass the budget bill by midnight on June 15 of each year.

(4) Until the budget bill has been enacted, the Legislature shall not send to the Governor for consideration any bill appropriating funds for expenditure during the fiscal year for which the budget bill is to be enacted, except emergency bills recommended by the Governor or appropriations for the salaries and expenses of the Legislature.

(d) No bill except the budget bill may contain more than one item of appropriation, and that for one certain, expressed purpose. Appropriations from the General Fund of the State, except appropriations for the public schools and appropriations in the budget bill and in other bills providing for appropriations related to the budget bill, are void unless passed in each house by rollcall vote entered in the journal, two-thirds of the membership concurring.

(e) (1) Notwithstanding any other provision of law or of this Constitution, the budget bill and other bills providing for appropriations related to the budget bill may be passed in each house by rollcall vote entered in the journal, a majority of the membership concurring, to take effect immediately upon being signed by the Governor or upon a date specified in the legislation. Nothing in this subdivision shall affect the vote requirement for appropriations for the public schools contained in subdivision (d) of this section and in subdivision (b) of Section 8 of this article.

(2) For purposes of this section, “other bills providing for appropriations related to the budget bill” shall consist only of bills identified as related to the budget in the budget bill passed by the Legislature.

(f) The Legislature may control the submission, approval, and enforcement of budgets and the filing of claims for all state agencies.

(g) For the 2004–05 fiscal year, or any subsequent fiscal year, the Legislature may not send to the Governor for consideration, nor may the Governor sign into law, a budget bill that would appropriate from the General Fund, for that fiscal year, a total amount that, when combined with all appropriations from the General Fund for that fiscal year made as of the date of the budget bill’s passage, and the amount of any General Fund moneys transferred to the Budget Stabilization Fund for that fiscal year pursuant to Section 20 of Article XVI, exceeds General Fund revenues, transfers, and balances available from the prior fiscal year for that fiscal year estimated as of the date of the budget bill’s passage. That estimate of General Fund revenues, transfers, and balances shall be set forth in the budget bill passed by the Legislature.

(h) Notwithstanding any other provision of law or of this Constitution, including subdivision (c) of this section, Section 4 of this article, and Sections 4 and 8 of Article III, in any year in which the budget bill is not passed by the Legislature by midnight on June 15, there shall be no appropriation from the current budget or future budget to pay any salary or reimbursement for travel or living expenses for Members of the Legislature during any regular or special session for the period from midnight on June 15 until the day that the budget bill is presented to the Governor. No salary or reimbursement for travel or living expenses forfeited pursuant to this subdivision shall be paid retroactively.

Third—That Section 20 of Article XVI thereof is amended to read:

SEC. 20. (a) The Budget Stabilization Fund and the Supplemental Budget Stabilization Account are hereby created in the General Fund.

(b) In each fiscal year as specified in paragraphs (1) to (3), inclusive, the Controller shall transfer from the General Fund to the Budget Stabilization Fund the following amounts:

(1) No later than September 30, 2006, a sum equal to 1 percent of the estimated amount of General Fund revenues for the 2006–07 fiscal year.

(2) No later than September 30, 2007, a sum equal to 2 percent of the estimated amount of General Fund revenues for the 2007–08 fiscal year.

(3) No later than September 30, 2008, and annually thereafter through 2012, a sum equal to 3 percent of the estimated amount of General Fund revenues for the current fiscal year.

(4) On September 23, 2013, and on September 23 annually thereafter, a sum equal to 3 percent of the estimated amount of General Fund revenues for the current fiscal year.

(c) The transfer of moneys shall not be required by subdivision (b) in any fiscal year to the extent that the resulting balance in the Budget Stabilization Fund would exceed 10 percent of the General Fund revenues estimate set forth in the budget bill for that fiscal year, as enacted. The Legislature may, by statute, direct the Controller, for one or more fiscal years, to transfer into the Budget Stabilization Fund amounts in excess of the levels prescribed by this subdivision.

(d) Subject to any restriction imposed by this section, funds transferred to the Budget Stabilization Fund or the Supplemental Budget Stabilization

Account shall be deemed to be General Fund revenues for all purposes of this Constitution.

(e) The transfer of moneys from the General Fund to the Budget Stabilization Fund may be suspended or reduced for a fiscal year as specified by an executive order issued by the Governor no later than the date of the transfer set forth in subdivision (b). For a fiscal year commencing on or after July 1, 2013, this subdivision shall be operative only if a transfer of moneys from the Budget Stabilization Fund to the General Fund is authorized pursuant to paragraph (1) of subdivision (g).

(f) (1) Of the moneys transferred to the Budget Stabilization Fund in each fiscal year, 50 percent, up to the aggregate amount of five billion dollars (\$5,000,000,000) for all fiscal years, shall be deposited in the Deficit Recovery Bond Retirement Sinking Fund Subaccount, which is hereby created in the Budget Stabilization Fund for the purpose of retiring deficit recovery bonds authorized and issued as described in Section 1.3, in addition to any other payments provided for by law for the purpose of retiring those bonds. The moneys in the sinking fund subaccount are continuously appropriated to the Treasurer to be expended for that purpose in the amounts, at the times, and in the manner deemed appropriate by the Treasurer. Any funds remaining in the sinking fund subaccount after all of the deficit recovery bonds are retired shall be transferred to the Budget Stabilization Fund, and may be transferred to the General Fund pursuant to paragraph (2).

(2) All other funds transferred to the Budget Stabilization Fund in a fiscal year shall not be deposited in the sinking fund subaccount and may be transferred to the General Fund by statute pursuant to subdivision (g) or (h).

(g) (1) Subject to paragraph (2), the total amount that may be transferred from the Budget Stabilization Fund to the General Fund pursuant to this subdivision for any fiscal year shall not exceed the lesser of the following:

(A) The shortfall amount for the current fiscal year.

(B) Fifty percent of the balance of the Budget Stabilization Fund.

(2) If a transfer was made pursuant to this subdivision in both the prior fiscal year and the fiscal year immediately preceding that year, the total amount that may be transferred from the Budget Stabilization Fund to the General Fund pursuant to this subdivision for the current fiscal year shall not exceed the shortfall amount for the current fiscal year.

(3) For purposes of this subdivision, the “shortfall amount for the current fiscal year” is the amount derived by subtracting the General Fund revenues, transfers, and balances available from the prior fiscal year for that fiscal year from the expenditure forecast amount for the current fiscal year.

(4) For purposes of this subdivision, “General Fund revenues, transfers, and balances available from the prior fiscal year for that fiscal year” does not include revenues transferred from the General Fund to the Budget Stabilization Fund pursuant to subdivision (b) for that fiscal year.

(5) For purposes of this subdivision, Section 21, and Section 12 of Article IV, “balances available from the prior fiscal year for that fiscal year” means the funds in the Special Fund for Economic Uncertainties, or a successor

fund, as of June 30 of the prior fiscal year. “The prior fiscal year” means the immediately preceding fiscal year.

(6) For purposes of this subdivision and Section 21, the “expenditure forecast amount” for the current fiscal year is the total General Fund expenditures for the prior fiscal year adjusted for the change in population of the State, as defined in Section 8 of Article XIII B, and the change in the cost of living for the State, as measured by the California Consumer Price Index, between the prior fiscal year and the current fiscal year.

(7) For purposes of this subdivision, “total General Fund expenditures for the prior fiscal year” does not include the expenditure of funds transferred pursuant to subdivision (h), or the expenditure of unanticipated revenues pursuant to paragraph (3) or (4) of subdivision (c) of Section 21.

(h) Any funds necessary for the purpose of responding to an emergency declared by the Governor may be transferred from the Budget Stabilization Fund to the General Fund by statute. For purposes of this subdivision, “emergency” has the same meaning as set forth in paragraph (2) of subdivision (c) of Section 3 of Article XIII B.

(i) In addition to any transfer authorized by this section, funds in the Budget Stabilization Fund or the Supplemental Budget Stabilization Account may be loaned to meet General Fund cash requirements on the condition that the funds are repaid within the same fiscal year in which the loan is made.

(j) (1) Except as provided in paragraph (3), on October 1, 2013, and on October 1 annually thereafter, the Controller shall transfer from the Budget Stabilization Fund to the Supplemental Budget Stabilization Account a sum equal to 1.5 percent of the estimated amount of General Fund revenues for the current fiscal year.

(2) Funds in the Supplemental Budget Stabilization Account may be appropriated only for the purposes set forth in subparagraphs (B) and (C) of paragraph (4) of subdivision (c) of Section 21.

(3) Paragraph (1) shall not be operative in a fiscal year for which the Governor issues an executive order pursuant to subdivision (e) to suspend or reduce the transfer of moneys from the General Fund to the Budget Stabilization Fund.

Fourth—That Section 21 is added to Article XVI thereof, to read:

SEC. 21. (a) On or before May 29, 2014, and on or before May 29 of each year thereafter, the Director of Finance shall do all of the following, reporting the result in each case to the Legislature and the Governor:

(1) Separately estimate General Fund revenues, transfers, and balances available from the prior fiscal year for the current fiscal year.

(2) Determine the revenue forecast amount for the current fiscal year in the manner set forth in subdivision (d).

(3) Estimate the amount, as of that date, of any General Fund obligations arising under Section 8 for the current fiscal year, including any maintenance factor allocation for the current fiscal year required pursuant to subdivision (e) of Section 8, that are attributable to unanticipated revenues in the current fiscal year.

(b) (1) Except as provided in paragraph (2), “unanticipated revenues” for a fiscal year, for purposes of this section, shall be the lesser of the following:

(A) Estimated General Fund revenues for the current fiscal year reported pursuant to paragraph (1) of subdivision (a) minus the revenue forecast amount for the current fiscal year.

(B) Estimated General Fund revenues, transfers, and balances available from the prior fiscal year for the current fiscal year reported pursuant to paragraph (1) of subdivision (a) minus the expenditure forecast amount for the current fiscal year determined pursuant to paragraph (6) of subdivision (g) of Section 20.

(2) If the amount determined pursuant to paragraph (1) is less than zero, the amount of unanticipated revenues shall be zero.

(c) Unanticipated revenues, as determined pursuant to this section, may be used only as follows:

(1) Unanticipated revenues shall be appropriated to satisfy any General Fund obligations arising under Section 8 for the current fiscal year, as estimated pursuant to paragraph (3) of subdivision (a).

(2) Any unanticipated revenues that remain after deducting, in accordance with paragraph (1), the amount of the estimate required by paragraph (3) of subdivision (a) shall be transferred by the Controller no later than June 27 of the current fiscal year to the Budget Stabilization Fund, not exceeding the amount needed to increase the balance in the fund to an amount equal to 10 percent of the General Fund revenues estimate set forth in the budget bill for that fiscal year, as enacted. Notwithstanding any other provision of this Constitution:

(A) If the Director of Finance determines at any time that the total amount of General Fund obligations arising under Section 8 for a fiscal year, including any maintenance factor allocation for that fiscal year required pursuant to subdivision (e) of Section 8, exceeds the total amount of those General Fund obligations as calculated for that fiscal year for purposes of the estimate required by paragraph (3) of subdivision (a), he or she shall so report to the Legislature, the Governor, and the Controller. The Controller shall thereupon transfer funds in the amount of that difference from the Budget Stabilization Fund to the General Fund, and the funds so transferred shall be appropriated only for purposes of funding the additional amount of General Fund obligations under Section 8 determined pursuant to this paragraph.

(B) If the Director of Finance determines at any time that the total amount of General Fund obligations arising under Section 8 for a fiscal year, including any maintenance factor allocation for that fiscal year required pursuant to subdivision (e) of Section 8, is less than the total amount of those General Fund obligations as calculated for that fiscal year for purposes of the estimate required by paragraph (3) of subdivision (a), he or she shall so report to the Legislature, the Governor, and the Controller. The Controller shall thereupon transfer funds in the amount of that difference from the General Fund to the Budget Stabilization Fund, not exceeding the amount

needed to increase the balance in the latter fund to an amount equal to 10 percent of the estimate of General Fund revenues as set forth in the enacted budget bill for that fiscal year.

(3) Any unanticipated revenues remaining after any appropriations and transfers described in paragraphs (1) and (2) shall be appropriated to retire outstanding budgetary obligations. For purposes of this paragraph, “budgetary obligations” means any of the following:

(A) Unfunded General Fund obligations pursuant to Section 8 for one or more prior fiscal years.

(B) Any repayment obligations created by the suspension of subparagraph (A) of paragraph (1) of subdivision (a) of Section 25.5 of Article XIII.

(C) Any repayment obligations created by the suspension of subdivision (a) of Section 1 of Article XIX B.

(D) Bonded indebtedness authorized pursuant to Section 1.3.

(4) Any unanticipated revenues remaining after any appropriations and transfers described in paragraphs (1), (2), and (3) are made to retire all outstanding budgetary obligations shall be used for one or more of the following purposes:

(A) Transfer by statute to the Budget Stabilization Fund.

(B) Appropriation for one-time infrastructure or other capital outlay purposes.

(C) Appropriation to retire, redeem, or defease outstanding general obligation or other bonded indebtedness of the State.

(D) Return to taxpayers within the current or immediately following fiscal year by a one-time revision of tax rates, or by rebates.

(E) Appropriation for unfunded liabilities for vested nonpension benefits for state annuitants.

(d) For the 2013–14 fiscal year, and for each fiscal year thereafter, the revenue forecast amount shall be determined as follows:

(1) The General Fund revenues for the current fiscal year shall be forecast by extrapolating from the trend line derived by a linear regression of General Fund revenues as a function of fiscal year for the period of the 20 preceding fiscal years. For purposes of this paragraph, General Fund revenues shall exclude both of the following:

(A) The General Fund revenue effect of a change in state taxes that affects General Fund revenues for less than the entire period of the 20 preceding fiscal years.

(B) Any proceeds of bonds authorized by subdivision (a) of Section 1.3.

(2) The amount forecast pursuant to paragraph (1) shall be increased or decreased, as applicable, to reflect the net current fiscal year General Fund revenue effect of a change in state taxes for which General Fund revenue effects were excluded pursuant to subparagraph (A) of paragraph (1).

Fifth—That if Proposition 25 is not approved by the voters at the November 2, 2010, statewide general election, the amendments to Section 12 of Article IV of the California Constitution proposed by the first section of this measure, and not the amendments to Section 12 of Article IV proposed by the second section of this measure, shall be submitted to the

electors by the Secretary of State. If Proposition 25 is approved by the voters at the November 2, 2010, statewide general election, the amendments to Section 12 of Article IV of the California Constitution proposed by the second section of this measure, and not the amendments to Section 12 of Article IV proposed by the first section of this measure, shall be submitted to the electors by the Secretary of State.

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