

AMENDED IN SENATE JUNE 27, 2012

AMENDED IN SENATE APRIL 9, 2012

Senate Constitutional Amendment

No. 10

Introduced by Senator Strickland

March 15, 2011

Senate Constitutional Amendment No. 10—A resolution to propose to the people of the State of California an amendment to the Constitution of the State, by adding Section 23 to Article IV thereof, and by amending Sections 1, 1.5, 2, 8, 9, and 10.5 of, and adding Sections 1.9 and 9.5 to, Article XIII B thereof, relating to government finance.

LEGISLATIVE COUNSEL'S DIGEST

SCA 10, as amended, Strickland. Government finance.

Existing provisions of the California Constitution place limitations on the authority of the state or an entity of local government to expend the proceeds of taxes, as defined. These provisions require the state or an entity of local government to establish an appropriations limit for each fiscal year, defined as the total annual appropriations subject to limitation. These provisions prohibit the total annual appropriations subject to limitation from exceeding the appropriations limit of the government entity for the prior year adjusted for a change in the cost of living and the change in population, as defined. If the state incurs excess revenues above its appropriations limit for 2 consecutive fiscal years, the provisions require 50% of the excess revenues to be transferred and allocated to the State School Fund for elementary, high school, and community college purposes, and the remaining 50% of the excess revenues to be returned to the taxpayers pursuant to a revision of tax rates or fee schedules. If an entity of local government incurs excess revenues above its appropriations limit for 2 consecutive fiscal

years, the provisions require all of the excess revenues to be returned to the taxpayers pursuant to a revision of tax rates or fee schedules. Existing law provides that appropriations for all qualified capital outlay projects are not appropriations subject to limitation under these provisions. Qualified capital outlay projects are defined by the Legislature.

This measure would revise and recast these provisions to provide, on and after July 1, 2013, that the appropriations limit of the state for the expenditure of the proceeds of taxes shall be the total amount of appropriations subject to limitation in the 2010–11 fiscal year.

The measure would require excess revenues to be allocated on an annual basis rather than biennially. In fiscal years in which the total amount of debt service exceeds a specified amount, any excess revenues of the state or an entity of local government would be appropriated for the reduction of debt, as defined. In fiscal years in which the total amount of debt service is less than that specified amount and excess revenues of the state are less than \$2,000,000,000, any excess revenues would be divided between the State School Fund and the prudent state reserve fund. In fiscal years in which the total amount of debt service is less than the specified amount and excess revenues of the state exceed \$2,000,000,000, any excess revenues would be returned to the taxpayers pursuant to a reduction of tax rates or fees, as specified. In fiscal years in which the total amount of debt service is less than the specified amount, any excess revenues of an entity of local government would be returned to the taxpayers pursuant to a reduction of tax rates or fees, as specified.

The measure would repeal the provision that authorizes the Legislature to define qualified capital outlay projects that are not appropriations subject to limitation under these provisions. The measure would instead define a qualified capital outlay project for purposes of these provisions. The measure would prohibit the Legislature or the people through initiative from enacting a statute that would exempt any proceeds of taxes from these provisions or exempt an appropriation from the appropriations limit of the state or entity of local government. The measure would require the Controller to review the annual calculation of appropriations subject to limitation as part of an annual financial audit.

The California Constitution requires that a change in state statute, passed by the Legislature, that results in a taxpayer paying a higher tax

be imposed in an act that is passed with the approval of not less than $\frac{2}{3}$ of the membership of each house of the Legislature.

This measure would, notwithstanding that provision, require any change in state statute to be passed by not less than $\frac{2}{3}$ of the membership of each house of the Legislature if it imposes a new or higher tax on any taxpayer, authorizes or enables *the* imposition of a new or higher tax on any taxpayer by the state, or authorizes or enables *the* imposition of a new or higher tax on any taxpayer by any political subdivision of the state.

The measure would provide that any person shall have standing to enforce its provisions. The measure would provide that it shall be liberally construed. The measure would provide that its provisions are severable.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

1 WHEREAS, This measure shall be known and may be cited as
2 the “Government Spending Limit Act of 2012”; and

3 WHEREAS, The Legislature finds and declares all of the
4 following:

5 (a) The purpose of this constitutional amendment is to force
6 California politicians to balance the budget by spending only what
7 the state *State* can afford.

8 (b) It will repair California’s broken budget system by rejecting
9 the failed pattern of wasteful government spending, enormous
10 deficits and debt, and higher taxes in favor of a reasonable spending
11 limit that will force state and local politicians to live within their
12 means, balance the budget, pay down our debt, and control
13 spending without wasting additional taxpayer dollars.

14 (c) By doing this, we will help create jobs and foster a healthy
15 economy; and

16 WHEREAS, The Legislature further finds and declares all of
17 the following:

18 (a) California politicians waste too much of our tax money.
19 They do not prioritize programs or cut waste. Instead, they threaten
20 massive tax hikes or cuts to critical programs like law enforcement
21 and schools, but they never seriously work to clean up the waste
22 and inefficiencies in government. This measure allows voters to
23 take control of government spending and forces the politicians to
24 prioritize programs and clean up the waste and abuses before they

1 ask us to pay more of our hard-earned dollars in new and higher
2 taxes.

3 (b) More spending, debt, and higher taxes are not the answer to
4 California’s budget problems. In the 10 years between 2000–01
5 and 2010–11, total state spending increased by over \$39 billion.
6 In 2009, our state Legislature imposed one of the largest tax
7 increases ever enacted by any state in American history—over \$12
8 billion.

9 (c) However, in spite of these eye-popping tax and spending
10 increases, California government continues to fail the people. The
11 politicians still cannot balance our state and local budgets, in good
12 or bad economic times. Instead, they use gimmicks and borrowing
13 to claim budgets are balanced when they know they are not. In
14 fact, as much as 85 percent of the Legislature’s short-term budget
15 “fixes” are never achieved, leaving California taxpayers deeply in
16 debt and the budget unbalanced year after year. This has resulted
17 in billions more in deficits and long-term debt that our children
18 and grandchildren will have to pay back. Currently, California’s
19 debt is already estimated in excess of \$200 billion, including
20 billions for excessive pensions.

21 (d) All of these additional taxes, spending, and debt did not
22 improve the lives of everyday Californians. Today, our roads are
23 crumbling, our schools are failing, and our public universities are
24 becoming unaffordable. Our water system is broken, our prisons
25 are overflowing, and we have fewer police officers patrolling our
26 streets.

27 (e) As the past 10 years have proven, no amount of increased
28 taxes and spending will ever fix the problem because the special
29 interests who control our state and their politician friends will
30 simply divert any extra taxpayer dollars to their own benefit, like
31 unsustainable and overly generous public employee pensions.
32 California does not have a revenue problem, it has a spending
33 problem. The politicians no longer represent the taxpayers, only
34 the special interests who demand higher spending and taxes with
35 no accountability and no assurances the money is not wasted.

36 (f) Since the politicians can no longer be trusted to spend
37 taxpayer money wisely, it is time for Californians to once again
38 take back control of their government and limit what the politicians
39 can spend. In 1979, voters enacted a reasonable spending limit,

1 but over time the Legislature and special interests have demolished
2 that limit originally approved by the voters.

3 (g) A crucial component of controlling government spending
4 is to also control government’s ability to extract additional revenues
5 from taxpayers. In 1978, voters enacted a reasonable requirement
6 that no tax could be imposed by the Legislature without a
7 two-thirds vote. Despite that clear and unambiguous standard, the
8 Legislature and the special interests have attempted to undermine
9 the two-thirds vote requirement for taxes by suggesting that it may
10 be possible for the Legislature to raise taxes on a simple majority
11 vote in some situations. Here, the voters again reaffirm the
12 two-thirds vote requirement for taxes and declare that all taxes,
13 however constructed or conceived, may only be authorized,
14 adopted, or increased by the Legislature through a two-thirds vote
15 of each house of the Legislature.

16 (h) The only effective way to control government spending, end
17 waste, pay off our debt, and protect taxpayers is to impose a
18 reasonable spending limit that will force California politicians to
19 once again live within our means and check the explosive and
20 ineffective growth of government spending once and for all; now,
21 therefore, be it

22 RESOLVED BY THE SENATE, THE ASSEMBLY
23 CONCURRING, That the Legislature of the State of California at
24 its 2011–12 Regular Session commencing on the sixth day of
25 December 2010, two-thirds of the membership of each house
26 concurring, hereby proposes to the people of the State of California
27 that the Constitution of the State be amended as follows:

28 First—That Section 23 is added to Article IV thereof, to read:

29 SEC. 23. (a) Notwithstanding any other provision of this
30 Constitution or any other law, any change in state statute shall be
31 enacted by an act passed by not less than two-thirds of each house
32 of the Legislature if the change in state statute would do any of
33 the following:

- 34 (1) Impose a new or higher tax on any taxpayer.
- 35 (2) Authorize or enable *the* imposition of a new or higher tax
36 on any taxpayer by the State.
- 37 (3) Authorize or enable *the* imposition of a new or higher tax
38 on any taxpayer by any political subdivision of the State.

39 (b) As used in this section, the following terms have the
40 following meanings:

1 (1) “Change in state statute” includes, but is not limited to, all
2 of the following:

3 (A) Bills passed by the Legislature.

4 (B) An addition to, or amendment or repeal of, an initiative
5 statute that only becomes effective when approved by the electors.

6 ~~(C) An addition, amendment, or repeal of statutory “in-lieu”~~
7 ~~provisions or findings of statewide concern.~~

8 ~~(D)~~

9 (C) Any and every other possible type of modification to state
10 law, whether by addition, amendment, or repeal, that is not
11 identified in subparagraphs (A) to (C), inclusive and (B).

12 (2) “Political subdivision” includes any “local government” and
13 any “special district” as those terms are defined in Section 1 of
14 Article XIII C.

15 (3) “Tax” is defined in subdivision (b) of Section 3 of Article
16 XIII A as applied to the State and subdivision (e) of Section 1 of
17 Article XIII C as applied to an entity of local government.

18 (c) To the extent that any other provision of this Constitution
19 could be read, whether expressly or impliedly, as authorizing the
20 Legislature to enact any change in state statute pursuant to
21 paragraphs (1) to (3), inclusive, of subdivision (a) without being
22 enacted by an act passed by not less than two-thirds of each house
23 of the Legislature, this section shall supersede that provision.

24 (d) (1) Any change in state statute enacted by the Legislature
25 between December 1, 2011, and the effective date of this section,
26 that would have been prohibited if this section were in effect on
27 the date the change in state statute was enacted, is hereby repealed
28 as of the date of its enactment.

29 (2) Notwithstanding paragraph (1), any change in state statute
30 that is repealed under paragraph (1) may be reenacted by the
31 Legislature and signed into law by the Governor in compliance
32 with the requirements of this section.

33 (e) Notwithstanding Section 32 of Article XIII, any person shall
34 have standing to challenge a violation of this section and enforce
35 compliance with this section. In a legal action to challenge a
36 violation of this section, the government bears the burden of
37 proving its compliance with this section by a preponderance of the
38 evidence.

39 Second—That Section 1 of Article XIII B thereof is amended
40 to read:

1 SECTION 1. (a) The total annual appropriations subject to
2 limitation of the State shall not exceed the appropriations limit for
3 the prior year adjusted for the change in the cost of living and the
4 change in population, except as otherwise provided in this article.

5 (b) The total annual appropriations subject to limitation of each
6 entity of local government shall not exceed the appropriations limit
7 for the prior year adjusted for the change in the cost of living and
8 the change in population, except as otherwise provided in this
9 article.

10 (c) Any person shall have standing to challenge a violation of
11 this article and enforce compliance with this article. In a legal
12 action to challenge a violation of this article, the government bears
13 the burden of proving its compliance with this article by a
14 preponderance of the evidence.

15 Third—That Section 1.5 of Article XIII B thereof is amended
16 to read:

17 SEC. 1.5. The annual calculation of the appropriations limit
18 under this article for the State shall be reviewed as part of an annual
19 financial audit conducted by the Controller. The annual calculation
20 of the appropriations limit under this article for each entity of local
21 government shall be reviewed as part of an annual financial audit.

22 Fourth—That Section 1.9 is added to Article XIII B thereof, to
23 read:

24 SEC. 1.9. (a) If, in any fiscal year, the total amount of all
25 proceeds of taxes received by the State exceeds the amount that
26 may be appropriated by the State in compliance with this article
27 and the total amount of debt service of the State in that fiscal year
28 is 5 percent or more of the appropriations limit, the excess revenue
29 shall be appropriated in the subsequent fiscal year for the reduction
30 of debt.

31 (b) If, in any fiscal year, the total amount of all proceeds of
32 taxes received by an entity of local government exceeds the amount
33 that may be appropriated by the entity of local government in
34 compliance with this article and the total amount of debt service
35 of the entity of local government in that fiscal year is 5 percent or
36 more of the appropriations limit, the excess revenue shall be
37 appropriated in the subsequent fiscal year for the reduction of debt.

38 Fifth—That Section 2 of Article XIII B thereof is amended to
39 read:

1 SEC. 2. (a) If, in any fiscal year, the total amount of all
2 proceeds of taxes received by the State exceeds the amount that
3 may be appropriated by the State in compliance with this article
4 by less than two billion dollars (\$2,000,000,000) and the total
5 amount of debt service of the State in that fiscal year is less than
6 5 percent of the appropriations limit, the excess revenue shall be
7 appropriated as follows:

8 (1) Fifty percent of the excess revenue shall be transferred and
9 allocated, from a fund established for that purpose, pursuant to
10 Section 8.5 of Article XVI. Notwithstanding Article XVI, revenues
11 transferred and allocated pursuant to this paragraph shall only
12 supplement the funding guarantee for schools, and shall not change
13 the minimum funding formula or the maintenance factor.

14 (2) Fifty percent of the excess revenue shall be transferred to
15 the prudent state reserve fund required by Section 5.5.
16 Notwithstanding Sections 5 and 5.5, excess revenues transferred
17 pursuant to this paragraph shall not constitute an appropriation
18 subject to limitation.

19 (b) If, in any fiscal year, the total amount of all proceeds of
20 taxes received by the State exceeds the amount that may be
21 appropriated by the State in compliance with this article by two
22 billion dollars (\$2,000,000,000) or more and the total amount of
23 debt service of the State in that fiscal year is less than 5 percent
24 of the appropriations limit, the excess revenue shall be refunded
25 to the taxpayers by a reduction of tax rates or fees within the next
26 two subsequent fiscal years.

27 (c) If, in any fiscal year, the total amount of all proceeds of taxes
28 received by an entity of local government exceeds the amount that
29 may be appropriated by the entity of local government in
30 compliance with this article and the total amount of debt service
31 of the entity of local government in that fiscal year is less than 5
32 percent of the appropriations limit, the excess revenue shall be
33 returned to the taxpayers by a reduction of tax rates or fees within
34 the next two subsequent fiscal years.

35 Sixth—That Section 8 of Article XIII B thereof is amended to
36 read:

37 SEC. 8. As used in this article and except as otherwise
38 expressly provided herein:

39 (a) “Appropriations subject to limitation” of the State means
40 any authorization to expend during a fiscal year the proceeds of

1 taxes levied by or for the State, exclusive of state subventions for
2 the use and operation of local government (other than subventions
3 made pursuant to Section 6) and further exclusive of refunds of
4 taxes, benefit payments from retirement, unemployment insurance,
5 and disability insurance funds.

6 (b) “Appropriations subject to limitation” of an entity of local
7 government means any authorization to expend during a fiscal
8 year the proceeds of taxes levied by or for that entity and the
9 proceeds of state subventions to that entity (other than subventions
10 made pursuant to Section 6) exclusive of refunds of taxes.

11 (c) (1) With respect to the State, “proceeds of taxes” shall
12 include, but not be restricted to, all tax revenues and the proceeds
13 to the State from regulatory licenses, user charges, and user fees
14 to the extent that those proceeds exceed the costs reasonably borne
15 by the State in providing the regulation, product, or service, and
16 ~~the any return on the~~ investment of those revenues and proceeds.
17 “Proceeds of taxes” shall not include, subventions to local
18 governments, other than subventions made pursuant to Section 6.

19 (2) With respect to any entity of local government, “proceeds
20 of taxes” shall include, but not be restricted to, all tax revenues
21 and the proceeds to an entity of local government from regulatory
22 licenses, user charges, and user fees to the extent that those
23 proceeds exceed the costs reasonably borne by the entity of local
24 government in providing the regulation, product, or service, and
25 subventions received from the State, other than pursuant to Section
26 6, and ~~the investment any return on the investment~~ of those
27 revenues, proceeds, and subventions.

28 (d) “Local government” or “entity of local government” means
29 any city, county, city and county, charter city, charter county,
30 charter city and county, school district, community college district,
31 special district, authority, or any other political subdivision of or
32 within the State.

33 (e) (1) “Change in the cost of living” for the State, a school
34 district, or a community college district means the percentage
35 change in California per capita personal income from the preceding
36 year.

37 (2) “Change in the cost of living” for an entity of local
38 government, other than a school district or a community college
39 district, shall be either (A) the percentage change in California per
40 capita personal income from the preceding year, or (B) the

1 percentage change in the local assessment roll from the preceding
2 year for the jurisdiction due to the addition of local nonresidential
3 new construction. Each entity of local government shall select its
4 change in the cost of living pursuant to this paragraph annually by
5 a recorded vote of the entity's governing body.

6 (f) (1) "Change in population" of any entity of local
7 government, other than a school district or a community college
8 district, shall be determined by a method prescribed by the
9 Legislature, provided that the determination shall be revised, as
10 necessary, to reflect the periodic census conducted by the United
11 States Department of Commerce or any other department of the
12 federal government that should succeed to the duties of the United
13 States Department of Commerce.

14 (2) "Change in population" of a school district or a community
15 college district shall be the percentage change in the average daily
16 attendance of the school district or community college district from
17 the preceding fiscal year, as determined by a method prescribed
18 by the Legislature.

19 (3) "Change in population" of the State shall be determined by
20 adding (1) the percentage change in the State's population
21 multiplied by the percentage of the State's budget in the prior fiscal
22 year that is expended for other than educational purposes for
23 kindergarten and grades one to 12, inclusive, and the community
24 colleges, and (2) the percentage change in the total statewide
25 average daily attendance in kindergarten and grades one to 12,
26 inclusive, and the community colleges, multiplied by the percentage
27 of the State's budget in the prior fiscal year that is expended for
28 educational purposes for kindergarten and grades one to 12,
29 inclusive, and the community colleges.

30 Any determination of population pursuant to this paragraph,
31 other than that measured by average daily attendance, shall be
32 revised, as necessary, to reflect the periodic census conducted by
33 the United States Department of Commerce or any other
34 department of the federal government that should succeed to the
35 duties of the United States Department of Commerce.

36 (g) "Debt service" means appropriations required to pay the
37 cost of interest and redemption charges, including the funding of
38 any reserve or sinking fund required in connection therewith, on
39 indebtedness existing or legally authorized as of January 1, 1979,
40 or on bonded indebtedness thereafter approved according to law

1 ~~by a vote of the electors of the issuing entity voting in an election~~
2 ~~for that purpose.~~

3 (h) The “appropriations limit” of each entity of local government
4 and of the State for each fiscal year is that amount that total annual
5 appropriations subject to limitation may not exceed under Sections
6 1 and 3.

7 (i) Except as otherwise provided in Section 5, “appropriations
8 subject to limitation” do not include local agency loan funds or
9 indebtedness funds, investment (or authorizations to invest) funds
10 of the State, or of an entity of local government in accounts at
11 banks or savings and loan associations or in liquid securities.

12 (j) “Debt” means the total amount of outstanding general
13 obligation bonds or other bonded indebtedness of the State or of
14 an entity of local government, including interest and redemption
15 charges, approved according to law ~~by a vote of the electors of the~~
16 ~~issuing entity.~~

17 Seventh—That Section 9 of Article XIII B thereof is amended
18 to read:

19 SEC. 9. “Appropriations subject to limitation” for each entity
20 of local government and for the State do not include:

21 (a) Appropriations for debt service.

22 (b) Appropriations required to comply with mandates of the
23 courts or the federal government which, without discretion, require
24 an expenditure for additional services or that unavoidably make
25 the provision of existing services more costly.

26 (c) Appropriations of any special district that existed on January
27 1, 1978, and that did not as of the 1977–78 fiscal year levy an ad
28 valorem tax on property in excess of 12 ½ cents (\$0.125) per one
29 hundred dollars (\$100) of assessed value; or the appropriations of
30 any special district then existing or thereafter created by a vote of
31 the people, which is totally funded by other than the proceeds of
32 taxes.

33 (d) Appropriations for all qualified capital outlay projects. As
34 used in this subdivision, an appropriation for a “qualified capital
35 outlay project” means an appropriation for a fixed asset, including
36 land and construction, with a useful life of 10 or more years and
37 a value that equals or exceeds one hundred thousand dollars
38 (\$100,000).

39 (e) Appropriations of revenue that are derived from any of the
40 following:

1 (1) That portion of the taxes imposed on motor vehicle fuels
2 for use in motor vehicles upon public streets and highways at a
3 rate of more than nine cents (\$0.09) per gallon.

4 (2) Sales and use taxes collected on that increment of the tax
5 specified in paragraph (1).

6 (3) That portion of the weight fee imposed on commercial
7 vehicles that exceeds the weight fee imposed on those vehicles on
8 January 1, 1990.

9 Eighth—That Section 9.5 is added to Article XIII B thereof, to
10 read:

11 SEC. 9.5. Any statute enacted pursuant to Section 8 of Article
12 II or Article IV shall not do any of the following:

13 (a) Exempt or have the effect of exempting any appropriation
14 from the appropriations limit of the State or of an entity of local
15 government.

16 (b) Exempt or have the effect of exempting any proceeds of
17 taxes from this article.

18 Ninth—That Section 10.5 of Article XIII B thereof is amended
19 to read:

20 SEC. 10.5. (a) For fiscal years beginning on or after July 1,
21 2013, the appropriations limit for the State shall be the total amount
22 of appropriations subject to limitation in *the* fiscal year 2010–11
23 adjusted for changes in population and changes in the cost of living
24 from that fiscal year pursuant to this article.

25 (b) The appropriations limit of each entity of local government
26 shall be the appropriations limit for the 1986–87 fiscal year
27 adjusted for the changes made from that fiscal year pursuant to
28 this article, as amended by the measure adding this section, adjusted
29 for the changes required by Section 3.

30 Tenth—This measure shall be liberally construed to promote
31 its objectives to the fullest extent possible. If this measure is found
32 to be inconsistent with any other provision of the California
33 Constitution, whether expressly or impliedly, this measure shall
34 be controlling.

35 Eleventh—If any section, subdivision, paragraph, sentence,
36 clause, phrase, or word of this measure is for any reason held to
37 be invalid by a decision of any court of competent jurisdiction,
38 that decision shall not affect the validity of the remaining portions
39 of the measure. The ~~People~~ *people* of California hereby declare
40 that the people would have passed this measure and each and every

- 1 section, subdivision, paragraph, sentence, clause, phrase, and word
- 2 not declared invalid or unconstitutional without regard to whether
- 3 any portion of this measure would be subsequently declared invalid.

O