
Introduced by Senator Hancock

July 14, 2011

Senate Constitutional Amendment No. 15—A resolution to propose to the people of the State of California an amendment to the Constitution of the State, by amending Section 3 of Article XIII A thereof, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

SCA 15, as introduced, Hancock. Taxation: voter approval.

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 alternatively allow a change in state statute, passed by the Legislature, that results in a taxpayer paying a higher tax to be imposed in an act passed by a majority of the membership of each house of the Legislature, where that change becomes effective only when submitted to the voters and approved by a majority of the voters voting on that measure at a statewide election.

This measure would make related findings and declarations.

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

- 1 WHEREAS, Decisions regarding taxation are some of the most
- 2 difficult types of decisions that any level of government makes;
- 3 and
- 4 WHEREAS, The current legislative two-thirds vote requirement
- 5 in Section 3 of Article XIII A of the California Constitution is

1 designed to encourage consensus on issues of taxation, but many
2 times has led to gridlock; and

3 WHEREAS, The legislative two-thirds vote requirement has in
4 some circumstances allowed for the opening and continuation of
5 tax loopholes and led to tax legislation that has heavily impacted
6 ordinary taxpayers; and

7 WHEREAS, Voters have substantial experience in evaluating
8 taxes at the polls, having both passed and rejected many tax
9 measures by majority vote on both state and local ballots; and

10 WHEREAS, It is the intent of the Legislature to propose to the
11 People of the State of California the Taxpayer Right to Vote Act,
12 which provides an alternative approach to tax legislation which
13 does not make it easier to raise taxes, but attempts instead to reflect
14 the will of the majority of the voters; and

15 WHEREAS, This measure would propose a process as an
16 alternative to, but not a replacement for, the legislative two-thirds
17 vote requirement, by which a majority of the membership of each
18 house of the Legislature may submit tax measures to the voters at
19 a statewide election; now, therefore, be it

20 *Resolved by the Senate, the Assembly concurring, That the*
21 *Legislature of the State of California at its 2011–12 Regular*
22 *Session commencing on the sixth day of December 2010,*
23 *two-thirds of the membership of each house concurring, hereby*
24 *proposes to the people of the State of California, that the*
25 *Constitution of the State be amended as follows:*

26 That Section 3 of Article XIII A thereof is amended to read:

27 SEC. 3. (a) Any change in state statute ~~which~~ *that* results in
28 any taxpayer paying a higher tax must be imposed ~~by an act in~~
29 *accordance with either of the following:*

30 (1) ~~By an act passed by not less than two-thirds of all members~~
31 ~~elected to the membership of each of the two houses~~ *house* of the
32 Legislature, except that no new ad valorem taxes on real property,
33 or sales or transaction taxes on the sales of real property may be
34 imposed.

35 (2) *An act passed by a majority of the membership of each house*
36 *of the Legislature and the change becomes effective only when*
37 *submitted to the voters and approved by a majority of the voters*
38 *voting on that measure at a statewide election, except that no new*
39 *ad valorem taxes on real property, or sales or transaction taxes*
40 *on the sales of real property may be imposed.*

- 1 (b) As used in this section, “tax” means any levy, charge, or
2 exaction of any kind imposed by the State, except the following:
- 3 (1) A charge imposed for a specific benefit conferred or privilege
4 granted directly to the payor that is not provided to those not
5 charged, and which does not exceed the reasonable costs to the
6 State of conferring the benefit or granting the privilege to the payor.
- 7 (2) A charge imposed for a specific government service or
8 product provided directly to the payor that is not provided to those
9 not charged, and which does not exceed the reasonable costs to
10 the State of providing the service or product to the payor.
- 11 (3) A charge imposed for the reasonable regulatory costs to the
12 State incident to issuing licenses and permits, performing
13 investigations, inspections, and audits, enforcing agricultural
14 marketing orders, and the administrative enforcement and
15 adjudication thereof.
- 16 (4) A charge imposed for entrance to or use of state property,
17 or the purchase, rental, or lease of state property, except charges
18 governed by Section 15 of Article XI.
- 19 (5) A fine, penalty, or other monetary charge imposed by the
20 judicial branch of government or the State, as a result of a violation
21 of law.
- 22 (c) Any tax adopted after January 1, 2010, but prior to the
23 effective date of this act, that was not adopted in compliance with
24 the requirements of this section is void 12 months after the effective
25 date of this act unless the tax is reenacted by the Legislature and
26 signed into law by the Governor in compliance with the
27 requirements of this section.
- 28 (d) The State bears the burden of proving by a preponderance
29 of the evidence that a levy, charge, or other exaction is not a tax,
30 that the amount is no more than necessary to cover the reasonable
31 costs of the governmental activity, and that the manner in which
32 those costs are allocated to a payor bear a fair or reasonable
33 relationship to the payor’s burdens on, or benefits received from,
34 the governmental activity.