

Assembly Constitutional Amendment

No. 3

Introduced by Assembly Member Campos

January 22, 2013

Assembly Constitutional Amendment No. 3—A resolution to propose to the people of the State of California an amendment to the Constitution of the State, by amending Sections 1 and 4 of Article XIII A thereof, by amending Section 2 of Article XIII C thereof, by amending Section 3 of Article XIII D thereof, and by amending Section 18 of Article XVI thereof, relating to local government finance.

LEGISLATIVE COUNSEL'S DIGEST

ACA 3, as introduced, Campos. Local government financing: public safety services: voter approval.

(1) The California Constitution prohibits the general ad valorem tax rate on real property from exceeding 1% of the full cash value of the property, subject to certain exceptions.

This measure would create an additional exception to the 1% limit for a rate imposed by a city, county, or special district to service bonded indebtedness incurred to fund certain fire, emergency response, police, or sheriff buildings or facilities, and equipment, that is approved by 55% of the voters of the city, county, or special district, as applicable.

(2) The California Constitution conditions the imposition of a special tax by a city, county, or special district upon the approval of $\frac{2}{3}$ of the voters of the city, county, or special district voting on that tax, and prohibits these entities from imposing an ad valorem tax on real property or a transactions or sales tax on the sale of real property.

This measure would authorize the imposition, extension, or increase of a special tax by a city, county, or special district for the purpose of

providing supplemental funding fire, emergency response, police, or sheriff services, upon the approval of 55% of the voters voting on the proposition, and would prohibit the revenues derived from such a tax from being expended to supplant any other funding source for the provision of these services. This measure would also make conforming changes to related provisions.

(3) The California Constitution prohibits specified local government agencies from incurring any indebtedness exceeding in any year the income and revenue provided in that year, without the assent of $\frac{2}{3}$ of the voters and subject to other conditions. In the case of a school district, community college district, or county office of education, the California Constitution permits a proposition for the incurrence of indebtedness in the form of general obligation bonds for the construction, reconstruction, rehabilitation, or replacement of school facilities, including the furnishing and equipping of school facilities, or the acquisition or lease of real property for school facilities, to be adopted upon the approval of 55% of the voters of the district or county, as appropriate, voting on the proposition at an election.

This measure would similarly lower to 55% the voter-approval threshold for a city or county to incur bonded indebtedness, exceeding in any year the income and revenue provided in that year, that is in the form of general obligation bonds issued to fund certain fire, emergency response, police, or sheriff buildings or facilities, and equipment.

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

1 *Resolved by the Assembly, the Senate concurring,* That the
2 Legislature of the State of California at its 2013–14 Regular
3 Session commencing on the third day of December 2012,
4 two-thirds of the membership of each house concurring, hereby
5 proposes to the people of the State of California, that the
6 Constitution of the State be amended as follows:

7 First—That Section 1 of Article XIII A thereof is amended to
8 read:

9 SECTION 1. (a) The maximum amount of any ad valorem
10 tax on real property shall not exceed ~~One 1 percent (1%)~~ of the
11 full cash value of ~~such~~ *that* property. The ~~one 1 percent (1%)~~ tax
12 ~~to~~ *shall* be collected by the counties and apportioned according to
13 law to the districts within the counties.

1 (b) The limitation provided for in subdivision (a) shall not apply
2 to ad valorem taxes or special assessments to pay the interest and
3 redemption charges on any of the following:

4 (1) Indebtedness approved by the voters prior to July 1, 1978.

5 (2) Bonded indebtedness for the acquisition or improvement of
6 real property approved on or after July 1, 1978, by two-thirds of
7 the votes cast by the voters voting on the proposition.

8 (3) Bonded indebtedness incurred by a school district,
9 community college district, or county office of education ~~for~~ *to*
10 *fund* the construction, reconstruction, rehabilitation, or replacement
11 of school facilities, including the furnishing and equipping of
12 school facilities, or the acquisition or lease of real property for
13 school facilities, approved by 55 percent of the voters of the district
14 or county, as appropriate, voting on the proposition on or after ~~the~~
15 ~~effective date of the measure adding this paragraph~~ *November 8,*
16 *2000.* This paragraph shall apply only if the proposition approved
17 by the voters and resulting in the bonded indebtedness includes
18 all of the following accountability requirements:

19 (A) A requirement that the proceeds from the sale of the bonds
20 be used only for the purposes specified in ~~Article XIII A, Section~~
21 ~~4(b)(3), this paragraph~~ and not for any other purpose, including
22 teacher and administrator salaries and other school operating
23 expenses.

24 (B) A list of the specific school facilities projects to be funded
25 and certification that the school district board, community college
26 board, or county office of education has evaluated safety, class
27 size reduction, and information technology needs in developing
28 that list.

29 (C) A requirement that the school district board, community
30 college board, or county office of education conduct an annual,
31 independent performance audit to ensure that the funds have been
32 expended only on the specific projects listed.

33 (D) A requirement that the school district board, community
34 college board, or county office of education conduct an annual,
35 independent financial audit of the proceeds from the sale of the
36 bonds until all of those proceeds have been expended for the school
37 facilities projects.

38 (4) *Bonded indebtedness, approved by 55 percent of the voters*
39 *of a city, county, or special district, as applicable, voting on the*
40 *proposition on or after the effective date of the measure adding*

1 *this paragraph, incurred by the city, county, or special district to*
 2 *fund any or all of the following:*

3 (A) *The construction, reconstruction, rehabilitation, or*
 4 *replacement of buildings or facilities for direct and exclusive use*
 5 *by fire, emergency response, police, or sheriff personnel employed*
 6 *by the city, county, or special district to provide fire, emergency*
 7 *response, police, or sheriff services to the public; or to fund the*
 8 *acquisition or lease of real property for those buildings or*
 9 *facilities.*

10 (B) *The purchase, lease, rent, maintenance, or repair of fire*
 11 *suppression or emergency response equipment or of interoperable*
 12 *communications equipment for direct and exclusive use by fire or*
 13 *emergency response personnel employed by the city, county, or*
 14 *special district.*

15 (C) *The purchase, lease, rent, maintenance, or repair of*
 16 *interoperable communications equipment for direct and exclusive*
 17 *use by police or sheriff personnel employed by the city, county, or*
 18 *special district.*

19 (c) *Notwithstanding any other provisions of law or of this*
 20 *Constitution, a school-districts, community college districts, and*
 21 *county offices of education district, community college district,*
 22 *county office of education, city, county, or special district may*
 23 *levy a 55 percent vote ad valorem tax pursuant to subdivision (b).*

24 ~~Second—That Section 4 of Article XIII A thereof is amended~~
 25 ~~to read:~~

26 ~~Section 4. Cities, Counties and special districts, Except as~~
 27 ~~otherwise provided by Section 2 of Article XIII C, a city, county,~~
 28 ~~or special district, by a two-thirds vote of the qualified electors of~~
 29 ~~such district its voters voting on the proposition, may impose~~
 30 ~~special taxes on such district a special tax within that city, county,~~
 31 ~~or special district, except an ad valorem taxes tax on real property~~
 32 ~~or a transaction transactions tax or sales tax on the sale of real~~
 33 ~~property within such City, County that city, county, or special~~
 34 ~~district.~~

35 ~~Third—That Section 2 of Article XIII C thereof is amended to~~
 36 ~~read:~~

37 ~~SEC. 2. Local Government Tax Limitation.—Notwithstanding~~
 38 ~~any other provision of this Constitution:~~

39 (a) ~~All taxes—Any tax imposed by any local government shall be~~
 40 ~~deemed to be is either a general taxes tax or a special taxes tax.~~

1 ~~Special purpose districts~~ *A special district or agencies agency,*
2 ~~including a school districts district, shall have~~ *has no power*
3 ~~authority to levy a general taxes tax.~~

4 (b) ~~No~~ A local government ~~may~~ *shall not* impose, extend, or
5 increase any general tax unless and until that tax is submitted to
6 the electorate and approved by a majority vote. A general tax ~~shall~~
7 ~~is not be~~ deemed to have been increased if it is imposed at a rate
8 not higher than the maximum rate so approved. The election
9 required by this subdivision shall be consolidated with a regularly
10 scheduled general election for members of the governing body of
11 the local government, except in cases of emergency declared by
12 a unanimous vote of the governing body.

13 (c) Any general tax imposed, extended, or increased, without
14 voter approval, by any local government on or after January 1,
15 1995, and prior to the effective date of this article, shall continue
16 to be imposed only if *that general tax is* approved by a majority
17 vote of the voters voting in an election on the issue of the
18 imposition, which election shall be held ~~within two years of the~~
19 ~~effective date of this article~~ *no later than November 6, 1998,* and
20 in compliance with subdivision (b).

21 (d) ~~No~~ (1) *Except as otherwise provided in paragraph (2), a*
22 local government ~~may~~ *shall not* impose, extend, or increase any
23 special tax unless and until that tax is submitted to the electorate
24 and approved by ~~a two-thirds vote of the voters voting on the~~
25 ~~proposition.~~ A special tax ~~shall~~ *is not be* deemed to have been
26 increased if it is imposed at a rate not higher than the maximum
27 rate so approved.

28 (2) *The imposition, extension, or increase of a special tax by a*
29 *local government, as may otherwise be authorized by law, for the*
30 *purpose of providing supplemental funding for fire, emergency*
31 *response, police, or sheriff services, requires the approval of 55*
32 *percent of the voters voting on the proposition. A special tax for*
33 *the purpose of providing funding for fire, emergency response,*
34 *police, or sheriff services is not deemed to have been increased if*
35 *it is imposed at a rate not higher than the maximum rate previously*
36 *approved in the manner required by law. The revenues derived*
37 *from the imposition, extension, or increase of a special tax pursuant*
38 *to this paragraph shall not be expended to supplant any other*
39 *funding source for fire, emergency response, police, or sheriff*
40 *services.*

1 Fourth—That Section 3 of Article XIII D thereof is amended
2 to read:

3 ~~SEC. 3. Property Taxes, Assessments, Fees and Charges~~
4 ~~Limited.~~(a) ~~No~~An agency shall not assess a tax, assessment, fee,
5 or charge shall be assessed by any agency upon any parcel of
6 property or upon any person as an incident of property ownership
7 except:

8 (1) The ad valorem property tax imposed pursuant to Article
9 XIII and Article XIII A.

10 (2) Any special tax receiving a two-thirds vote pursuant to
11 Section 4 of Article XIII A and paragraph (1) of subdivision (d)
12 of Section 2 of Article XIII C or, as applicable, a 55-percent vote
13 pursuant to paragraph (2) of subdivision (d) of Section 2 of Article
14 XIII C.

15 (3) Assessments as provided by this article.

16 (4) Fees or charges for ~~property related~~ property-related services
17 as provided by this article.

18 (b) For purposes of this article, fees for the provision of electrical
19 or gas service shall are not be deemed charges or fees imposed as
20 an incident of property ownership.

21 Fifth—That Section 18 of Article XVI thereof is amended to
22 read:

23 ~~SEC. 18.~~ (a) ~~No~~ A county, city, town, township, board of
24 education, or school district, shall not incur any indebtedness or
25 liability in any manner or for any purpose exceeding in any year
26 the income and revenue provided for ~~such~~ that year, without the
27 assent of two-thirds of the voters of the public entity voting at an
28 election to be held for that purpose, except that with respect to any
29 ~~such~~ public entity ~~which~~ that is authorized to incur indebtedness
30 for public school purposes, any proposition for the incurrence of
31 indebtedness in the form of general obligation bonds for the
32 purpose of repairing, reconstructing, or replacing public school
33 buildings determined, in the manner prescribed by law, to be
34 structurally unsafe for school use, shall be adopted upon the
35 approval of a majority of the voters of the public entity voting on
36 the proposition at ~~such~~ that election; nor unless before or at the
37 time of incurring ~~such~~ the indebtedness, provision shall be made
38 for the collection of an annual tax sufficient to pay the interest on
39 ~~such~~ that indebtedness as it falls due, and to provide for a sinking
40 fund for the payment of the principal thereof, on or before maturity;

1 ~~which~~*that* shall not exceed forty years from the time of contracting
2 the indebtedness.

3 (b) Notwithstanding subdivision (a), on or after ~~the effective~~
4 ~~date of the measure adding this subdivision,~~ *November 8, 2000,*
5 in the case of any school district, community college district, or
6 county office of education, any proposition for the incurrence of
7 indebtedness in the form of general obligation bonds for the
8 construction, reconstruction, rehabilitation, or replacement of
9 school facilities, including the furnishing and equipping of school
10 facilities, or the acquisition or lease of real property for school
11 facilities, shall be adopted upon the approval of 55 percent of the
12 voters of the district or county, as appropriate, voting on the
13 proposition at an election. This subdivision shall apply only to a
14 proposition for the incurrence of indebtedness in the form of
15 general obligation bonds for the purposes specified in this
16 subdivision if the proposition meets all of the accountability
17 requirements of paragraph (3) of subdivision (b) of Section 1 of
18 Article XIII A.

19 (c) *Notwithstanding subdivision (a), on or after the effective*
20 *date of the measure adding this subdivision, in the case of any city*
21 *or county, any proposition to incur indebtedness in the form of*
22 *general obligation bonds shall be adopted by 55 percent of the*
23 *voters of the city or county, as applicable, voting on the proposition*
24 *at an election, if the general obligation bonds would fund any or*
25 *all of the following:*

26 (1) *The construction, reconstruction, rehabilitation, or*
27 *replacement of buildings or facilities for direct and exclusive use*
28 *by fire, emergency response, police, or sheriff personnel employed*
29 *by the city or county to provide fire, emergency response, police,*
30 *or sheriff services to the public, or to fund the acquisition or lease*
31 *of real property for those buildings or facilities.*

32 (2) *The purchase, lease, rent, maintenance, or repair of fire*
33 *suppression or emergency response equipment or of interoperable*
34 *communications equipment for direct and exclusive use by fire or*
35 *emergency response personnel employed by the city or county.*

36 (3) *The purchase, lease, rent, maintenance, or repair of*
37 *interoperable communications equipment for direct and exclusive*
38 *use by police or sheriff personnel employed by the city or county.*

39 (e)

1 (d) When two or more propositions for incurring any
 2 indebtedness or liability are submitted at the same election, the
 3 votes cast for and against each proposition shall be counted
 4 separately, and when two-thirds ~~or a majority~~ or 55 percent *or a*
 5 *majority* of the voters, as the case may be, voting on any one of
 6 those propositions, vote in favor thereof, the proposition shall be
 7 deemed adopted.

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10 CORRECTIONS:

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