

AMENDED IN ASSEMBLY JULY 16, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

Assembly Constitutional Amendment

No. 4

Introduced by Assembly Member Frazier
(Coauthor: Senator Volk)

February 27, 2015

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 4 of Article XIII A thereof, and by amending Section 2 of Article XIII C thereof, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

ACA 4, as amended, Frazier. Local government transportation projects: special taxes: voter approval.

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, except that certain school entities may levy an ad valorem property tax for specified purposes with the approval of 55% of the voters within the jurisdiction of these entities.

The California Constitution prohibits the Legislature from imposing taxes for local purposes, but allows the Legislature to authorize local governments to impose them. The Bradley-Burns Uniform Local Sales and Use Tax Law authorizes counties and cities to impose local sales and use taxes in conformity with the Sales and Use Tax Law, and existing law authorizes local governments to impose transactions and use taxes in accordance with the Transactions and Use Tax Law, which generally conforms to the Sales and Use Tax Law.

This measure would provide that the imposition, extension, or increase of a ~~special tax sales and use tax imposed pursuant to the Bradley-Burns Uniform Local Sales and Use Tax Law or a transactions and use tax imposed in accordance with the Transactions and Use Tax Law~~ by a local government for the purpose of providing funding for local transportation projects, as defined, requires the approval of 55% of its voters voting on the proposition. The measure would also make conforming and technical, nonsubstantive changes. This measure would also provide that it ~~shall~~ *would* become effective immediately upon approval by the voters and ~~shall~~ *would* apply to any local measure imposing, extending, or increasing a ~~special tax sales and use tax or transactions and use tax~~ for local transportation projects submitted at the same election.

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 2015–16 Regular
3 Session commencing on the first day of December 2014, two-thirds
4 of the membership of each house concurring, hereby proposes to
5 the people of the State of California that the Constitution of the
6 State be amended as follows:

7 First— That Section 4 of Article XIII A thereof is amended to
8 read:

9 SEC. 4. Except as otherwise provided by Section 2 of Article
10 XIII C, a city, county, or special district, by a two-thirds vote of
11 its voters voting on the proposition, may impose a special tax
12 within that city, county, or special district, except an ad valorem
13 tax on real property or a transactions tax or sales tax on the sale
14 of real property within that city, county, or special district.

15 Second— That Section 2 of Article XIII C thereof is amended
16 to read:

17 SEC. 2. Notwithstanding any other provision of this
18 Constitution:

19 (a) A tax imposed by any local government is either a general
20 tax or a special tax. A special district or agency, including a school
21 district, has no authority to levy a general tax.

22 (b) A local government shall not impose, extend, or increase
23 any general tax unless and until that tax is submitted to the
24 electorate and approved by a majority vote. A general tax is not

1 deemed to have been increased if it is imposed at a rate not higher
2 than the maximum rate so approved. The election required by this
3 subdivision shall be consolidated with a regularly scheduled general
4 election for members of the governing body of the local
5 government, except in cases of emergency declared by a unanimous
6 vote of the governing body.

7 (c) Any general tax imposed, extended, or increased, without
8 voter approval, by any local government on or after January 1,
9 1995, and prior to ~~the effective date of this article~~ *November 6,*
10 *1996,* may continue to be imposed only if that general tax is
11 approved by a majority vote of the voters voting in an election on
12 the issue of the imposition, which election is held no later than
13 November 6, 1998, and in compliance with subdivision (b).

14 (d) (1) Except as otherwise provided in paragraph (2), a local
15 government shall not impose, extend, or increase any special tax
16 unless and until that tax is submitted to the electorate and approved
17 by two-thirds of the voters voting on the proposition. A special
18 tax is not deemed to have been increased if it is imposed at a rate
19 not higher than the maximum rate so approved.

20 (2) (A) The imposition, extension, or increase of a ~~special tax~~
21 *sales and use tax imposed pursuant to the Bradley-Burns Uniform*
22 *Local Sales and Use Tax Law, or its successor, or a transactions*
23 *and use tax imposed in accordance with the Transactions and Use*
24 *Tax Law, or its successor,* by a local government for the purpose
25 of providing funding for local transportation projects under its
26 jurisdiction, as may otherwise be authorized by law, requires the
27 approval of 55 percent of the voters voting on the proposition. A
28 ~~special tax sales and use tax or transactions and use tax~~ for the
29 purpose of providing funding for local transportation projects is
30 not deemed to have been increased if it is imposed at a rate not
31 higher than the maximum rate previously approved in the manner
32 required by law.

33 (B) For purposes of this paragraph, “local transportation project”
34 means the planning, design, development, financing, construction,
35 reconstruction, rehabilitation, improvement, acquisition, lease,
36 operation, or maintenance of local streets, roads, and highways,
37 state highways and freeways, and public transit systems.

38 (3) *This subdivision, and the amendments made to Section 4 of*
39 *Article XIII A by the act adding this subdivision, shall become*
40 *effective immediately upon approval by the voters and shall apply*

1 *to any local measure imposing, extending, or increasing a sales*
2 *and use tax imposed pursuant to the Bradley-Burns Uniform Local*
3 *Sales and Use Tax Law or a transactions and use tax imposed in*
4 *accordance with the Transactions and Use Tax Law for the funding*
5 *of local transportation projects that is submitted at the same*
6 *election.*

7 ~~Third—This measure shall become effective immediately~~
8 ~~upon approval by the voters and shall apply to any local measure~~
9 ~~imposing, extending, or increasing a special tax for the funding of~~
10 ~~local transportation projects that is submitted at the same election.~~