

AMENDED IN ASSEMBLY MAY 12, 2010

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

Assembly Constitutional Amendment

No. 18

Introduced by Assembly Members Evans and Bass Member _____

March 26, 2009

Assembly Constitutional Amendment No. 18—A resolution to propose to the people of the State of California an amendment to the Constitution of the State, by amending Section 9 of Article II thereof, amending Sections 8 and 12 of Article IV thereof, and amending Section 3 of Article XIII A thereof, relating to the state budget. *Constitution of the State, by amending Sections 24 and 25.5 of Article XIII thereof, and by adding Section 17 to Article XI thereof, relating to local government finance.*

LEGISLATIVE COUNSEL'S DIGEST

ACA 18, as amended, Evans _____. ~~State budget.~~ *Local government finance reform.*

(1) The California Constitution authorizes the existence of local governments that can make and enforce ordinances and regulations that are not in conflict with general laws. The California Constitution also requires that general ad valorem property tax revenues be allocated to local jurisdictions in each county in the manner as provided in statute.

This measure would authorize local government agencies, in the manner provided for by statute, to adopt and implement a Countywide Strategic Action Plan, and, upon adoption of the plan in a county, would authorize the county board of supervisors to place on the ballot a measure to impose an additional countywide sales and use tax, the revenues of which would be distributed as provided pursuant to statute and the Countywide Strategic Action Plan. This measure would prohibit

the state from reallocating the proceeds of a non-ad valorem tax that is imposed by a local government agency, would specify that general ad valorem property tax revenues are required to be allocated to jurisdictions in the county in which those revenues are collected, and would prohibit the direction by statute of the expenditure of those revenues for any specific purpose or purposes.

(2) The California Constitution prohibits the Legislature from modifying the manner in which ad valorem property tax revenues are allocated by law so as to reduce, for any fiscal year, the percentage of the total amount of property tax revenues in a county that is allocated among all of the local agencies in that county below the percentage of the total amount of those revenues that would be allocated among those agencies for the same fiscal year under the statutes in effect on November 3, 2004. This prohibition may be suspended for a fiscal year under specified conditions.

This measure would limit the suspension authority to the 2009–10 fiscal year. The measure would, except for specified purposes, also prohibit the Legislature from reallocating or directing the expenditure of property tax revenues that are allocated to a community redevelopment agency under constitutional provisions that authorize the expenditure by the agency of incremental property tax revenues in a redevelopment project area.

(3) This measure would become operative on January 1, 2011.

~~(1) The California Constitution requires specified bills, including certain bills making appropriations from the General Fund, and a bill making a change in state taxes for the purpose of raising revenue, to be passed in each house of the Legislature by a $\frac{2}{3}$ vote.~~

~~This measure would exempt General Fund appropriations in the Budget Bill from the $\frac{2}{3}$ -vote requirement.~~

~~This measure also would permit the Legislature, by majority vote in each house, to propose to the voters a change in a state tax for purposes of increasing revenue through a statute enacting a bill identified in the Budget Bill as necessary to implement the Budget Bill. This measure would provide that, if a majority of the voters approve the statute, it would go into effect the day after the election.~~

~~(2) The California Constitution provides that a statute takes immediate effect upon enactment if the statute calls for an election, provides for a tax levy or makes an appropriation for the usual and current expenses of the state, or is an urgency statute. These measures are exempt from the voters' power of referendum to approve or reject a statute.~~

This measure would add, to those statutes that take effect immediately, statutes enacting the Budget Bill and statutes enacting bills identified in the Budget Bill as necessary to implement the Budget Bill, except for statutes to be proposed to the voters as described above. These statutes, including the statutes to be proposed to the voters, would be exempt from the voters' power of referendum.

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

1 *Resolved by the Assembly, the Senate concurring,* That the
2 Legislature of the State of California at its 2009–10 Regular
3 Session commencing on the first day of December 2008, 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 9 of Article II thereof is amended to read:

8 SEC. 9. (a) The referendum is the power of the electors to
9 approve or reject a statute or a part of a statute, except a statute
10 that takes effect immediately or a statute that is required to be
11 submitted to the electors.

12 (b) A referendum measure may be proposed by presenting to
13 the Secretary of State, within 90 days after the enactment date of
14 the statute, a petition certified to have been signed by electors
15 equal in number to 5 percent of the votes for all candidates for
16 Governor at the last gubernatorial election, asking that the statute
17 or part of it be submitted to the electors. In the case of a statute
18 enacted by a bill passed by the Legislature on or before the date
19 the Legislature adjourns for a joint recess to reconvene in the
20 second calendar year of the biennium of the legislative session,
21 and in the possession of the Governor after that date, the petition
22 shall not be presented on or after January 1 next following the
23 enactment date unless a copy of the petition is submitted to the
24 Attorney General pursuant to subdivision (d) of Section 10 before
25 January 1.

26 (c) The Secretary of State shall then submit the measure at the
27 next general election held at least 31 days after it qualifies or at a
28 special statewide election held prior to that general election. The
29 Governor may call a special statewide election for the measure.

30 Second—That Section 8 of Article IV thereof is amended to
31 read:

1 ~~SEC. 8. (a) At regular sessions, no bill other than the budget~~
2 ~~bill shall be heard or acted on by committee or either house until~~
3 ~~the 31st day after the bill is introduced unless the house dispenses~~
4 ~~with this requirement by rolleall vote entered in the journal,~~
5 ~~three-fourths of the membership concurring.~~

6 ~~(b) The Legislature shall not make a law except by statute and~~
7 ~~shall not enact a statute except by bill. A bill shall not be passed~~
8 ~~unless it is read by title on three days in each house, except that a~~
9 ~~house may dispense with this requirement by rolleall vote entered~~
10 ~~in the journal, two-thirds of the membership concurring. A bill~~
11 ~~shall not be passed until the bill with amendments has been printed~~
12 ~~and distributed to the Members. A bill shall not be passed unless,~~
13 ~~by rolleall vote entered in the journal, a majority of the membership~~
14 ~~of each house concurs.~~

15 ~~(c) (1) Except as provided in paragraphs (2) and (3), a statute~~
16 ~~enacted at a regular session shall go into effect on January 1 next~~
17 ~~following a 90-day period from the date of enactment of the statute~~
18 ~~and a statute enacted at a special session shall go into effect on the~~
19 ~~91st day after adjournment of the special session at which the bill~~
20 ~~was passed.~~

21 ~~(2) A statute, other than a statute establishing or changing~~
22 ~~boundaries of any legislative, congressional, or other election~~
23 ~~district, enacted by a bill passed by the Legislature on or before~~
24 ~~the date the Legislature adjourns for a joint recess to reconvene in~~
25 ~~the second calendar year of the biennium of the legislative session,~~
26 ~~and in the possession of the Governor after that date, shall go into~~
27 ~~effect on January 1 next following the enactment date of the statute~~
28 ~~unless, before January 1, a copy of a referendum petition affecting~~
29 ~~the statute is submitted to the Attorney General pursuant to~~
30 ~~subdivision (d) of Section 10 of Article II, in which event the~~
31 ~~statute shall go into effect on the 91st day after the enactment date~~
32 ~~unless the petition has been presented to the Secretary of State~~
33 ~~pursuant to subdivision (b) of Section 9 of Article II.~~

34 ~~(3) A statute calling an election, a statute providing for a tax~~
35 ~~levy, a statute making an appropriation for the usual current~~
36 ~~expenses of the State, an urgency statute, a statute enacting the~~
37 ~~budget bill, and a statute enacting a budget implementation bill~~
38 ~~shall go into effect immediately upon their enactment, except that~~
39 ~~a statute enacting a budget implementation bill submitted to the~~
40 ~~electors pursuant to subdivision (b) of Section 3 of Article XIII A~~

1 shall go into effect the day after the election at which the statute
2 is approved by the electors. For purposes of this section and Section
3 3 of Article XIII A, a “budget implementation bill” is a bill that is
4 identified in the budget bill as containing only changes in law
5 necessary to implement the budget bill.

6 (d) ~~An urgency statute is a statute necessary for immediate~~
7 ~~preservation of the public peace, health, or safety. A statement of~~
8 ~~facts constituting the necessity shall be set forth in one section of~~
9 ~~the bill. In each house the section and the bill shall be passed~~
10 ~~separately, each by rollcall vote entered in the journal, two-thirds~~
11 ~~of the membership concurring. An urgency statute shall not create~~
12 ~~or abolish any office or change the salary, term, or duties of any~~
13 ~~office, or grant any franchise or special privilege, or create any~~
14 ~~vested right or interest.~~

15 ~~Third—That Section 12 of Article IV thereof is amended to~~
16 ~~read:~~

17 ~~SEC. 12. (a) Within the first 10 days of each calendar year,~~
18 ~~the Governor shall submit to the Legislature, with an explanatory~~
19 ~~message, a budget for the ensuing fiscal year containing itemized~~
20 ~~statements for recommended state expenditures and estimated state~~
21 ~~revenues. If recommended expenditures exceed estimated revenues,~~
22 ~~the Governor shall recommend the sources from which the~~
23 ~~additional revenues should be provided.~~

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

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

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

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

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

1 ~~(d) Except for the budget bill, a bill shall not contain more than~~
2 ~~one item of appropriation, and that for one certain, expressed~~
3 ~~purpose. Appropriations from the General Fund of the State, except~~
4 ~~appropriations for the public schools or appropriations made in~~
5 ~~the budget bill, are void unless passed in each house by rolleall~~
6 ~~vote entered in the journal, two-thirds of the membership~~
7 ~~concurring. For purposes of this section and Section 8, a “budget~~
8 ~~bill” is a bill that makes appropriations for the support of the~~
9 ~~government of the State for an entire fiscal year.~~

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

13 ~~(f) For the 2004–05 fiscal year, or any subsequent fiscal year,~~
14 ~~the Legislature may not send to the Governor for consideration,~~
15 ~~nor may the Governor sign into law, a budget bill that would~~
16 ~~appropriate from the General Fund, for that fiscal year, a total~~
17 ~~amount that, when combined with all appropriations from the~~
18 ~~General Fund for that fiscal year made as of the date of the budget~~
19 ~~bill’s passage, and the amount of any General Fund moneys~~
20 ~~transferred to the Budget Stabilization Account for that fiscal year~~
21 ~~pursuant to Section 20 of Article XVI, exceeds General Fund~~
22 ~~revenues for that fiscal year estimated as of the date of the budget~~
23 ~~bill’s passage. That estimate of General Fund revenues shall be~~
24 ~~set forth in the budget bill passed by the Legislature.~~

25 ~~Fourth—That Section 3 of Article XIII A thereof is amended~~
26 ~~to read:~~

27 ~~Section 3.—(a) Except as provided by subdivision (b), from and~~
28 ~~after the effective date of this article, a change in a state tax enacted~~
29 ~~for the purpose of increasing revenues collected pursuant thereto,~~
30 ~~whether by an increased rate or a change in the method of~~
31 ~~computation, must be imposed by an act passed by not less than~~
32 ~~two-thirds of the membership of each house of the Legislature,~~
33 ~~except that a new ad valorem tax on real property, or a sales or~~
34 ~~transaction tax on the sale of real property, shall not be imposed.~~

35 ~~(b) The Legislature may propose to the electors a change in a~~
36 ~~state tax for the purpose of increasing revenue collected pursuant~~
37 ~~thereto through a statute enacting a budget implementation bill. A~~
38 ~~statute enacting a budget implementation bill submitted to the~~
39 ~~electors pursuant to this subdivision shall become effective only~~
40 ~~if it is approved by a majority of the votes cast thereon by the~~

1 electors. If provisions of two or more statutes enacting budget
2 implementation bills submitted to the electors pursuant to this
3 subdivision conflict, the provisions of the statute receiving the
4 highest affirmative vote from the electors shall prevail.

5 *First—That Section 17 is added to Article XI thereof, to read:*

6 *SEC. 17. (a) In accordance with statute, local agencies in a*
7 *county may adopt and implement a Countywide Strategic Action*
8 *Plan that includes making effective use of existing resources and*
9 *providing for the means whereby additional revenue would*
10 *accelerate progress toward community goals. A Countywide*
11 *Strategic Action Plan shall provide for the sharing of local tax*
12 *revenues between local agencies within the county that is in*
13 *addition to any other authority conferred by this Constitution for*
14 *the sharing of local tax revenues between local agencies.*

15 *(b) In a county where a Countywide Strategic Action Plan is*
16 *adopted, the board of supervisors may, with the approval of a*
17 *majority of its membership, adopt an ordinance to place on the*
18 *ballot at a countywide election a measure to impose a countywide*
19 *sales and use tax that is in addition to any other sales and use tax*
20 *or any transactions and use tax imposed within the county. Any*
21 *tax measure placed on the ballot pursuant to this subdivision is*
22 *approved if it receives the affirmative vote of a majority of the*
23 *voters voting on the proposition.*

24 *(c) Notwithstanding any other law, the proceeds, net of refunds,*
25 *of an additional local sales and use tax imposed in a county*
26 *pursuant to subdivision (b) shall be distributed by the county*
27 *pursuant to statute and the Countywide Strategic Action Plan.*

28 *(d) Proceeds of an additional local sales and use tax imposed*
29 *pursuant to subdivision (b) that are distributed to a school district*
30 *or a community college district shall not be considered allocated*
31 *local proceeds of taxes for purposes of Section 8 of Article XVI.*

32 *(e) For purposes of this section, “local government agency”*
33 *means any local government as defined in Section 1 of Article*
34 *XIII C.*

35 *Second—That Section 24 of Article XIII thereof is amended to*
36 *read:*

37 *SEC. 24. (a) The Legislature may not impose taxes for local*
38 *purposes but may authorize local governments to impose them.*

39 **Money**

1 *Moneys* appropriated from state funds to a local government for
 2 its local purposes may be used as provided by law.

3 ~~Money~~

4 *Moneys* subvended to a local government under Section 25 may
 5 be used for state or local purposes.

6 *(b) The proceeds of any non-ad valorem tax or an assessment*
 7 *levied or imposed by a county, city, city and county, including a*
 8 *charter city or county, any special district, or any other local or*
 9 *regional governmental entity, belong exclusively to the entity that*
 10 *imposed the tax or assessment and may not be reallocated by*
 11 *statute. Ad valorem property tax revenues allocated pursuant to*
 12 *Section 1 of Article XIII A shall be allocated exclusively among*
 13 *the jurisdictions within the county in which they are collected in*
 14 *compliance with Section 25.5, and shall not be directed by statute*
 15 *for expenditure for a particular purpose or purposes.*

16 *Third—That Section 25.5 of Article XIII thereof is amended to*
 17 *read:*

18 SEC. 25.5. (a) On or after November 3, 2004, the Legislature
 19 shall not enact a statute to do any of the following:

20 (1) (A) Except as otherwise provided in subparagraph (B),
 21 modify the manner in which ad valorem property tax revenues are
 22 allocated in accordance with subdivision (a) of Section 1 of Article
 23 XIII A so as to reduce for any fiscal year the percentage of the total
 24 amount of ad valorem property tax revenues in a county that is
 25 allocated among all of the local agencies in that county below the
 26 percentage of the total amount of those revenues that would be
 27 allocated among those agencies for the same fiscal year under the
 28 statutes in effect on November 3, 2004. For purposes of this
 29 subparagraph, “percentage” does not include any property tax
 30 revenues referenced in paragraph (2).

31 ~~(B) Beginning with the 2008–09~~ *For only the 2009–10* fiscal
 32 ~~year and except as otherwise provided in~~ *subject to* subparagraph
 33 (C), subparagraph (A) may be suspended for a fiscal year if all of
 34 the following conditions are met:

35 (i) The Governor issues a proclamation that declares that, due
 36 to a severe state fiscal hardship, the suspension of subparagraph
 37 (A) is necessary.

38 (ii) The Legislature enacts an urgency statute, pursuant to a bill
 39 passed in each house of the Legislature by rollcall vote entered in
 40 the journal, two-thirds of the membership concurring, that contains

1 a suspension of subparagraph (A) for that fiscal year and does not
2 contain any other provision.

3 (iii) No later than the effective date of the statute described in
4 clause (ii), a statute is enacted that provides for the full repayment
5 to local agencies of the total amount of revenue losses, including
6 interest as provided by law, resulting from the modification of ad
7 valorem property tax revenue allocations to local agencies. This
8 full repayment shall be made not later than the end of the third
9 fiscal year immediately following the fiscal year to which the
10 modification applies.

11 ~~(C) (i) Subparagraph (A) shall not be suspended for more than~~
12 ~~two fiscal years during any period of 10 consecutive fiscal years,~~
13 ~~which period begins with the first fiscal year for which~~
14 ~~subparagraph (A) is suspended.~~

15 ~~(ii) Subparagraph (A) shall not be suspended during any fiscal~~
16 ~~year if the full repayment required by a statute enacted in~~
17 ~~accordance with clause (iii) of subparagraph (B) has not yet been~~
18 ~~completed.~~

19 ~~(iii) Subparagraph (A) shall not be suspended during any fiscal~~
20 ~~year if the amount that was required to be paid to cities, counties,~~
21 ~~and cities and counties under Section 10754.11 of the Revenue~~
22 ~~and Taxation Code, as that section read on November 3, 2004, has~~
23 ~~not been paid in full prior to the effective date of the statute~~
24 ~~providing for that suspension as described in clause (ii) of~~
25 ~~subparagraph (B).~~

26 ~~(iv)~~

27 (C) A suspension of subparagraph (A) shall not result in a total
28 ad valorem property tax revenue loss to all local agencies within
29 a county that exceeds 8 percent of the total amount of ad valorem
30 property tax revenues that were allocated among all local agencies
31 within that county for the fiscal year immediately preceding the
32 fiscal year for which subparagraph (A) is suspended.

33 (2) (A) Except as otherwise provided in subparagraphs (B) and
34 (C), restrict the authority of a city, county, or city and county to
35 impose a tax rate under, or change the method of distributing
36 revenues derived under, the Bradley-Burns Uniform Local Sales
37 and Use Tax Law set forth in Part 1.5 (commencing with Section
38 7200) of Division 2 of the Revenue and Taxation Code, as that
39 law read on November 3, 2004. The restriction imposed by this
40 subparagraph also applies to the entitlement of a city, county, or

1 city and county to the change in tax rate resulting from the end of
2 the revenue exchange period, as defined in Section 7203.1 of the
3 Revenue and Taxation Code as that section read on November 3,
4 2004.

5 (B) The Legislature may change by statute the method of
6 distributing the revenues derived under a use tax imposed pursuant
7 to the Bradley-Burns Uniform Local Sales and Use Tax Law to
8 allow the State to participate in an interstate compact or to comply
9 with federal law.

10 (C) The Legislature may authorize by statute two or more
11 specifically identified local agencies within a county, with the
12 approval of the governing body of each of those agencies, to enter
13 into a contract to exchange allocations of ad valorem property tax
14 revenues for revenues derived from a tax rate imposed under the
15 Bradley-Burns Uniform Local Sales and Use Tax Law. The
16 exchange under this subparagraph of revenues derived from a tax
17 rate imposed under that law shall not require voter approval for
18 the continued imposition of any portion of an existing tax rate from
19 which those revenues are derived.

20 (3) Except as otherwise provided in subparagraph (C) of
21 paragraph (2), change for any fiscal year the pro rata shares in
22 which ad valorem property tax revenues are allocated among local
23 agencies in a county other than pursuant to a bill passed in each
24 house of the Legislature by rollcall vote entered in the journal,
25 two-thirds of the membership concurring.

26 (4) Extend beyond the revenue exchange period, as defined in
27 Section 7203.1 of the Revenue and Taxation Code as that section
28 read on November 3, 2004, the suspension of the authority, set
29 forth in that section on that date, of a city, county, or city and
30 county to impose a sales and use tax rate under the Bradley-Burns
31 Uniform Local Sales and Use Tax Law.

32 (5) Reduce, during any period in which the rate authority
33 suspension described in paragraph (4) is operative, the payments
34 to a city, county, or city and county that are required by Section
35 97.68 of the Revenue and Taxation Code, as that section read on
36 November 3, 2004.

37 (6) Restrict the authority of a local entity to impose a
38 transactions and use tax rate in accordance with the Transactions
39 and Use Tax Law (Part 1.6 (commencing with Section 7251) of
40 Division 2 of the Revenue and Taxation Code), or change the

1 method for distributing revenues derived under a transaction and
2 use tax rate imposed under that law, as it read on November 3,
3 2004.

4 (b) *On and after January 1, 2011, the Legislature shall not enact*
5 *a statute to borrow or reallocate, or restrict or otherwise direct*
6 *the expenditure for any purpose or purposes of, revenues derived*
7 *from taxes on ad valorem real property or tangible personal*
8 *property allocated to a community redevelopment agency pursuant*
9 *to Section 16 of Article XVI, except for the purpose of (1) making*
10 *payments to affected taxing entities pursuant to Sections 33607.5*
11 *and 33607.7 of the Health and Safety Code, or successor statutes*
12 *requiring community redevelopment agency payments to taxing*
13 *entities; or (2) increasing, improving, or preserving the supply of*
14 *low- and moderate-income housing available at affordable housing*
15 *cost.*

16 ~~(b)~~

17 (c) For purposes of this section, the following definitions apply:

18 (1) “Ad valorem property tax revenues” means all revenues
19 derived from the tax collected by a county under subdivision (a)
20 of Section 1 of Article XIII A, regardless of any of this revenue
21 being otherwise classified by statute.

22 (2) “Local agency” has the same meaning as specified in Section
23 95 of the Revenue and Taxation Code as that section read on
24 November 3, 2004.

25 *Fourth—That the amendments to the California Constitution*
26 *made by this measure shall become operative on January 1, 2011.*

27 *Fifth—That if any provision of this measure or the applicability*
28 *thereof to any person or circumstance is found to be*
29 *unconstitutional or otherwise invalid, the finding shall not affect*
30 *the remaining provisions or applications of this measure to other*
31 *persons or circumstances, and to that extent the provisions of this*
32 *measure are deemed to be severable.*

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35 **CORRECTIONS:**

36 **Heading—Amended line—Page 1.**

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