AMENDED IN ASSEMBLY JUNE 26, 2009

AMENDED IN ASSEMBLY APRIL 27, 2009

california legislature—2009–10 regular session

Assembly Constitutional Amendment No. 9

Introduced by Assembly Member Huffman
(Coauthors: Assembly Members Fuentes, Portantino, Salas, *Saldana*, and Torlakson)
(Coauthors: Senators Hancock and Wolk)

February 6, 2009

Assembly Constitutional Amendment No. 9—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 9, as amended, Huffman. Local government bonds: special taxes: voter approval.

(1) The California Constitution prohibits the 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, city and county, or special district to service bonded indebtedness, incurred to fund specified public improvements, facilities or buildings, and housing, and related costs, that is approved by 55% of the voters of the city, county, city and county, or special district, as applicable. This additional exception would apply only if the proposition approved by the voters results in bonded indebtedness that includes specified accountability requirements.

(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, 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.

This measure would change the $\frac{2}{3}$ voter-approval requirement for special taxes to, instead, authorize a city, county, *city and county,* or special district to impose a special tax with the approval of 55% of its voters voting on the tax. This measure would also make technical, nonsubstantive changes to these provisions.

(3) The California Constitution prohibits a county, city, town, township, board of education, or school district from incurring any indebtedness exceeding in one year the income and revenue provided in that year, without the assent of $\frac{2}{3}$ of the voters and subject to other conditions.

This measure would lower to 55% the voter approval threshold for a city, county, or city and county to incur bonded indebtedness, exceeding in one year the income and revenue provided in that year, that is in the form of general obligation bonds to fund specified public improvements.

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

Resolved by the Assembly, the Senate concurring, That the Legislature of the State of California at its 2009–10 Regular Session commencing on the first day of December 2008, two-thirds of the membership of each house concurring, hereby proposes to the people of the State of California, that the Constitution of the State be amended as follows:

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

SECTION 1. (a) The maximum amount of any ad valorem tax on real property shall not exceed 1 percent of the full cash value of that property. The 1 percent tax to be collected by the counties and apportioned according to law to the districts within the counties.

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

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

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

(3) Bonded indebtedness incurred by a school district, community college district, or county office of education to fund 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, approved by 55 percent of the voters of the district or county, as appropriate, voting on the proposition on or after the effective date of the measure adding this paragraph. This paragraph shall apply only if the proposition approved by the voters and resulting in the bonded indebtedness includes all of the following accountability requirements:

(A) A requirement that the proceeds from the sale of the bonds be used only for the purposes specified in this paragraph, and not for any other purpose, including teacher and administrator salaries and other school operating expenses.

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

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

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

(4) (A) Bonded indebtedness, approved by 55 percent of the voters of the city, county, city and county, or special district, as applicable, voting on the proposition on or after the effective date of the measure adding this paragraph, incurred by a city, county,

city and county, or special district to fund any or all of the following:

(i) Construction, reconstruction, rehabilitation, or replacement of any of the following:

(I) Public improvements, including, but not limited to, improvements to transportation infrastructure, streets, highways, sewer systems, water systems, wastewater systems, and park and recreation facilities.

(II) Facilities or buildings used ~~exclusively~~ *primarily* to provide sheriff, police, or fire protection services to the public, including the furnishing and equipping of those facilities or buildings.

(III) ~~Development of housing~~ *Housing* affordable to lower and moderate-income households.

(ii) Acquisition or lease of real property for the public improvements, facilities or buildings, and housing described in clause (i) of this subparagraph.

(B) This paragraph shall apply only if the proposition approved by the voters and resulting in the bonded indebtedness includes all of the following accountability requirements:

(i) A requirement that the proceeds from the sale of the bonds be used only for the purposes specified in this paragraph, and not for any other purpose, including public employee salaries and other operating expenses of a public improvement, facility or building, or housing development once completed.

(ii) A list of the specific projects to be funded and certification that the city council, county board of supervisors, or governing body of the special district has evaluated the costs of operating the public improvements, public facilities, or affordable housing.

(iii) A requirement that the city council, county board of supervisors, or governing body of the special district conduct an annual, independent performance audit to ensure that the proceeds from the sale of the bonds have been expended only on the specific projects listed.

(iv) A requirement that the city council, county board of supervisors, or governing body of the special district conduct an annual, independent financial audit of the proceeds from the sale of the bonds until all of those proceeds have been expended for the specific projects to be funded from the bonds.

(v) A requirement for a public process that solicits a wide range of public comment from the community about the types of facilities that should be funded with the bond.

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

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

Section 4. A city, county, *city and county,* or special district, by a 55 percent vote of its voters voting on the proposition, may impose a special tax within that city, county, *city and county,* or special district, except an ad valorem tax on real property or a transactions tax or sales tax on the sale of real property within that city, county, *city and county,* or special district.

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

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

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

(b) A local government shall not impose, extend, or increase any general tax unless and until that tax is submitted to the electorate and approved by a majority vote of its voters voting on the proposition. A general tax is not deemed to have been increased if it is imposed at a rate not higher than the maximum rate so approved. The election required by this subdivision shall be consolidated with a regularly scheduled general election for members of the governing body of the local government, except in cases of emergency declared by a unanimous vote of the governing body.

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

(d) A local government shall not impose, extend, or increase any special tax unless and until that tax is submitted to the electorate and approved by a 55 percent vote of its voters voting on the proposition. A special tax is not deemed to have been increased if it is imposed at a rate not higher than the maximum rate so approved.

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

SEC. 3. (a) An agency shall not assess a tax, assessment, fee, or charge upon any parcel of property or upon any person as an incident of property ownership except:

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

(2) Any special tax approved by the voters of the city, county, city and county, or special district, as appropriate, voting on the proposition, as required by the California Constitution.

(3) Assessments as provided by this article.

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

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

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

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

(b) Notwithstanding subdivision (a), on or after November 8, 2000, in the case of any school district, community college district, or county office of education, any 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, shall be adopted upon the approval of 55 percent of the voters of the district or county, as appropriate, voting on the proposition at an election. This subdivision shall apply only to a proposition for the incurrence of indebtedness in the form of general obligation bonds for the purposes specified in this subdivision if the proposition meets all of the accountability requirements of paragraph (3) of subdivision (b) of Section 1 of Article XIII A.

(c) Notwithstanding subdivision (a), on or after the effective date of the measure adding this subdivision, in the case of any city, county, or city and county, any proposition to incur indebtedness in the form of general obligation bonds shall be adopted by 55 percent of the voters of the city, county, or city and county, as applicable, voting on the proposition at an election, where the general obligation bonds fund any or all of the following:

(1) Construction, reconstruction, rehabilitation, or replacement of any of the following:

(A) Public improvements, including, but not limited to, improvements to transportation infrastructures, streets, highways, sewer systems, waters systems, wastewater systems, and park and recreation facilities.

(B) Facilities or buildings used exclusively to provide sheriff, police, or fire protection services to the public, including the furnishing and equipping of those facilities or buildings.

(C) ~~Development of housing~~ *Housing* affordable to lower and moderate-income households.

(2) Acquisition or lease of real property for the public improvements, facilities or buildings, and housing described in paragraph (1) of this subdivision.

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

O