AMENDED IN ASSEMBLY MAY 9, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

Assembly Constitutional Amendment No. 5

Introduced by Assembly Member Portantino
(Coauthors: Assembly Members Davis, Fletcher, Huffman, and Solorio)
(Coauthor: Senator Wolk)

December 6, 2010

Assembly Constitutional Amendment No. 5—A resolution to propose to the people of the State of California an amendment to the Constitution of the State, by adding and repealing Section 8.5 of Article II thereof, by adding and repealing Section 8.5 of Article IV thereof, and by adding and repealing Section 1.2 of Article XVI thereof, relating to state finance.

LEGISLATIVE COUNSEL'S DIGEST

ACA 5, as amended, Portantino. State finance reform.

Existing provisions of the California Constitution provide that the electors may propose statutes or amendments to the California Constitution by initiative and approve or reject statutes by referendum. The California Constitution also provides that the Legislature may propose both amendments and revisions to the California Constitution to the electors, and may enact statutes by passing bills.

This measure would, until January 1, 2020, prohibit an initiative measure from being submitted to the electors or from having any effect if the initiative measure appropriates state funds for any purpose in an amount exceeding the amount appropriated for that purpose for the 2004–05 fiscal year by more than $250,000 unless the measure provides for additional state revenue or offsetting savings in a total amount that is not less than the amount of the appropriation.

This measure would, until January 1, 2020, provide that a statute, other than an urgency statute, is void if it appropriates state funds for any purpose in an amount exceeding the amount appropriated for that purpose for the 2004–05 fiscal year by more than $250,000 unless the statute provides for additional state revenue or offsetting savings in a total amount that is not less than the amount of the appropriation.

This measure would also, until January 1, 2020, prohibit the Treasurer from offering for sale or issuing general obligation bonds unless the measure that authorized the sale or issuance of the bond provides for additional state revenue or offsetting savings in an amount necessary to repay the bond, including principal and interest payments. ~~This prohibition would encompass bonds from bond measures approved prior to the operative date of the prohibition.~~

Vote: $^2/_3$. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

Resolved by the Assembly, the Senate concurring, That the Legislature of the State of California at its 2011–12 Regular Session commencing on the sixth day of December 2010, 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—The people of the State of California find and declare all of the following:

(a) During the current economic recession, California has experienced a dramatic decline in revenues that has forced and is forcing severe cutbacks in spending by the state government on services and programs. The state now faces an estimated shortage of $25.4 billion for the 2011–12 fiscal year.

(b) The budget for the 2011–12 fiscal year is expected to include a series of taxes and cuts triggered in part by the level of incoming federal dollars and the performance of the state's economy.

(c) State services have been funded in past budgets through gimmicks and borrowing that have served only to exacerbate our state government fiscal crisis. In addition, state borrowing through bond indebtedness has steadily increased over the past six years. California bond borrowing has reached the point where the debt load on the General Fund could, in the future, easily exceed 10 percent of the annual state budget. These fiscal practices are not sustainable and will lead only to further economic and fiscal crises.

(d) The Treasurer, in his State Debt Affordability Report issued in 2009, made the following observations to illustrate how debt payments will eat up increasingly larger chunks of the General Fund:

(1) The state in the 2010–11, 2011–12, and 2012–13 fiscal years will issue an estimated $4.06 billion in additional bonds backed by the General Fund. Over the same period, for these additional bonds and bonds already sold by the state, the General Fund will have to pay a combined $23.15 billion in debt service.

(2) As a percentage of General Fund revenues, the annual combined debt service payments will grow from 7.7 percent in the 2010–11 fiscal year to 8.81 percent in the 2012–13 fiscal year. Meanwhile, the General Fund over these three fiscal years will have a cumulative structural deficit of $38 billion, according to estimates by the Department of Finance.

(3) Over the long term, from the current fiscal year through the 2027–28 fiscal year, the state will issue $22.598 billion of General Fund-backed bonds. The combined debt service on these bonds and already sold bonds, over the same period, will total $254.96 billion.

(4) The General Fund's annual bond payments will grow from $6.01 billion in the 2009–10 fiscal year to $19.64 billion in the 2027–28 fiscal year. As a percentage of General Fund revenues, the annual debt burden will increase from 6.71 percent in the current year to 9.18 percent in the 2027–28 fiscal year. In between, from the 2014–15 fiscal year through the 2020–21 fiscal year, the debt service ratio will exceed 10 percent of General Fund revenues.

(e) The recession continues to take a terrible toll on California's communities and families. High unemployment plagues most sectors and the housing market remains depressed. Family income has shrunk and consumer spending has dropped. All these factors, in turn, continue to erode the revenues of the state and local government. And that erosion compounds the economic stresses by fueling further reductions in jobs and public services at the very time when both are needed most.

(f) Because debt service is considered a fixed part of a state's budget, credit analysts compare a state's General Fund-supported debt service to its General Fund revenues as a measure of the state's fiscal flexibility. The Treasurer's Debt Affordability Report issued in October 2010 indicates that California's ratio of debt service to General Fund revenues was 6.69 percent in the 2009–10 fiscal year, based on $5.790 billion in general obligation, lease revenue, and Proposition 1A Receivables debt service payments versus $86.521 billion in General Fund revenues for that fiscal year. This ratio is projected to be 7.17 percent in the 2010–11 fiscal year, based on $6.558 billion in debt service payments versus $91.451 billion in General Fund revenues as projected by the Department of Finance.

(g) California's level of debt to the total personal income of its residents measures a borrower's ability to repay its obligations because it provides one indicator of a state's ability to generate revenues. This has been estimated to be at 5.6 percent. The debt per capita measures residents' average share of a state's total outstanding debt. The state's debt per capita amounts to $2,362.

(h) It is the intent of the people of the State of California to adopt a process to require that, from 2010 until 2020, no statute or initiative passed or bond issued in this state shall take effect unless it is revenue neutral. The intent of this constitutional amendment is to adopt a "pay as you go" or "PayGo" system, in which any new statute or initiative passed that requires the expenditure of moneys also include specified savings or revenue sources that identify how the expenditures are to be made. If these offsetting savings or revenue sources are not specified in the statute or initiative it shall not become operative. The designated source of revenue shall not include any moneys from the General Fund or any other state fund unless the statute or initiative provides a new and specified funding source from which new moneys will be deposited into the General Fund or other state fund.

(i) The savings or revenue to fund any statute or initiative must be clearly and specifically identified, and sufficient to cover the expenditures and costs of the proposal.

(j) It is also the intent of the people of the State of California that, during the time that this requirement applies, state government shall be prohibited from issuing or selling any *general obligation* bond ~~indebtedness~~ unless a specified repayment source, other than the General Fund, has been identified to repay the proceeds of the issued bond.

Second—That this act shall be known and may be cited as the "PayGo" or "Pay as You Go" Fiscal Responsibility Act of 2011.

Third—That Section 8.5 is added to Article II thereof, to read:

SEC. 8.5. (a) Notwithstanding any other provision of this article, an initiative measure that would appropriate state funds for any purpose in an amount exceeding the amount appropriated for that purpose for the 2004–05 fiscal year by more than two hundred fifty thousand dollars ($250,000) shall not be submitted to the electors or have any effect unless the initiative measure provides for additional state revenue or offsetting savings in a total amount that is not less than the amount of the appropriation.

(b) An initiative measure that would authorize the issuance of any general obligation bond shall not be submitted to the electors or have any effect unless the measure provides for additional state revenue or offsetting savings in a total amount that is not less than the total state expense for the principal, interest, and related costs that would result from the issuance of the bond.

(c) This section shall remain in effect until January 1, 2020, and as of that date is repealed.

Fourth—That Section 8.5 is added to Article IV thereof, to read:

SEC. 8.5. (a) A statute, other than an urgency statute, that appropriates state funds for any purpose in an amount exceeding the amount appropriated for that purpose in the 2004–05 fiscal year by more than two hundred fifty thousand dollars ($250,000) is void unless the statute provides for additional state revenue or offsetting savings in a total amount that is not less than the amount of the appropriation.

(b) This section shall remain in effect until January 1, 2020, and as of that date is repealed.

Fifth—That Section 1.2 is added to Article XVI thereof, to read:

SEC. 1.2. (a) The Treasurer shall not offer for sale or issue any general obligation bond~~, including any bond that was authorized, but not sold or issued, prior to~~ *that is authorized after* the operative date of this subdivision, unless the measure authorizing the sale or issuance of the bond provides for additional state revenue or offsetting savings in an amount necessary to repay the bond, including principal and interest payments.

(b) This section shall remain in effect until January 1, 2020, and as of that date is repealed.

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