

Assembly Constitutional Amendment

No. 9

Introduced by Assembly Member Huffman
(Coauthors: Assembly Members Portantino, Salas, and Torlakson)
(Coauthor: Senator Hancock)

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 XIIC thereof, by amending Section 3 of Article XIID thereof, and by amending Section 18 of Article XVI thereof, relating to local government finance.

LEGISLATIVE COUNSEL'S DIGEST

ACA 9, as introduced, 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, or city and county to service bonded indebtedness, incurred to fund specified public improvements, facilities, and housing, and related costs, that is approved by 55% of the voters of the city, county, or city and county, 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, 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.

- 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 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 percent (1%)~~ *1 percent*
- 11 of the full cash value of ~~such~~ *that* property. The ~~one percent (1%)~~
- 12 *1 percent* tax to be collected by the counties and apportioned
- 13 according to law to the districts within the counties.
- 14 (b) The limitation provided for in subdivision (a) shall not apply
- 15 to ad valorem taxes or special assessments to pay the interest and
- 16 redemption charges on any of the following:
- 17 (1) Indebtedness approved by the voters prior to July 1, 1978.

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

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

15 (A) A requirement that the proceeds from the sale of the bonds
16 be used only for the purposes specified in ~~Article XIII A, Section~~
17 ~~1(b)(3) this paragraph~~, and not for any other purpose, including
18 teacher and administrator salaries and other school operating
19 expenses.

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

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

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

34 (4) (A) *Bonded indebtedness, approved by 55 percent of the*
35 *voters of the city, county, or city and county, as applicable, voting*
36 *on the proposition on or after the effective date of the measure*
37 *adding this paragraph, incurred by a city, county, or city and*
38 *county to fund any or all of the following:*

39 (i) *Construction, reconstruction, rehabilitation, or replacement*
40 *of either:*

1 (I) *Public improvements, including, but not limited to,*
 2 *improvements to transportation infrastructure, streets, highways,*
 3 *sewer systems, waters systems, wastewater systems, and park and*
 4 *recreation facilities.*

5 (II) *Public safety agency facilities.*

6 (ii) *Development of housing affordable to lower and moderate*
 7 *income households.*

8 (iii) *Acquisition or lease of real property for the public*
 9 *improvements, public safety agency facilities, and housing*
 10 *described in clauses (i) and (ii) of this subparagraph.*

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

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

19 (ii) *A list of the specific projects to be funded and certification*
 20 *that the city council or county board of supervisors has evaluated*
 21 *the costs of operating the public improvements, public facilities,*
 22 *or affordable housing.*

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

27 (iv) *A requirement that the city council or county board of*
 28 *supervisors conduct an annual, independent financial audit of the*
 29 *proceeds from the sale of the bonds until all of those proceeds*
 30 *have been expended for the specific projects to be funded from the*
 31 *bonds.*

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

35 (c) *Notwithstanding any other provisions of law or of this*
 36 *Constitution, a school-districts district, community college-districts*
 37 *district, and county-offices office of education, or a city, county,*
 38 *or city and county may levy a 55 percent vote ad valorem tax*
 39 *pursuant to subdivision (b).*

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

3 Section 4. ~~Cities, Counties and special districts, A city, county,~~
4 ~~or special district, by a two-thirds 55 percent vote of the qualified~~
5 ~~electors of such district its voters voting on the proposition, may~~
6 ~~impose special taxes on such district a special tax within that city,~~
7 ~~county, or special district, except an ad valorem-taxes tax on real~~
8 ~~property or a transaction transactions tax or sales tax on the sale~~
9 ~~of real property within such City, County that city, county, or~~
10 ~~special district.~~

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

13 SEC. 2. ~~Local Government Tax Limitation.~~ Notwithstanding
14 any other provision of this Constitution:

15 (a) ~~All taxes A tax~~ imposed by any local government ~~shall be~~
16 ~~deemed to be is~~ either a general ~~taxes tax~~ or a special ~~taxes tax~~.
17 ~~Special A special purpose districts district or agencies agency,~~
18 ~~including a school districts, shall have district, has no power~~
19 ~~authority to levy a general taxes tax.~~

20 (b) ~~No A~~ local government ~~may shall not~~ impose, extend, or
21 increase any general tax unless and until that tax is submitted to
22 the electorate and approved by a majority vote *of its voters voting*
23 *on the proposition*. A general tax ~~shall is not be~~ deemed to have
24 been increased if it is imposed at a rate not higher than the
25 maximum rate so approved. The election required by this
26 subdivision shall be consolidated with a regularly scheduled general
27 election for members of the governing body of the local
28 government, except in cases of emergency declared by a unanimous
29 vote of the governing body.

30 (c) Any general tax imposed, extended, or increased, without
31 voter approval, by any local government on or after January 1,
32 1995, and prior to the effective date of this article, ~~shall may~~
33 continue to be imposed only if *that general tax is* approved by a
34 majority vote of the voters voting in an election on the issue of the
35 imposition, which election ~~shall be is~~ held ~~within two years of the~~
36 ~~effective date of this article no later than November 6, 1998,~~ and
37 in compliance with subdivision (b).

38 (d) ~~No A~~ local government ~~may shall not~~ impose, extend, or
39 increase any special tax unless and until that tax is submitted to
40 the electorate and approved by a ~~two-thirds 55 percent~~ vote *of its*

1 voters voting on the proposition. A special tax ~~shall~~ is not be
 2 deemed to have been increased if it is imposed at a rate not higher
 3 than the maximum rate so approved.

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

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

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

13 (2) Any special tax ~~receiving a two-thirds vote pursuant to~~
 14 ~~Section 4 of Article XIII A approved by the voters of the city,~~
 15 ~~county, or city and county, as appropriate, voting on the~~
 16 ~~proposition, as required by the California Constitution.~~

17 (3) Assessments as provided by this article.

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

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

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

25 SEC. 18. (a) No county, city, town, township, board of
 26 education, or school district, shall incur any indebtedness or
 27 liability in any manner or for any purpose exceeding in any year
 28 the income and revenue provided for ~~such~~ *that* year, without the
 29 assent of two-thirds of the voters of the public entity voting at an
 30 election to be held for that purpose, except that with respect to any
 31 such public entity ~~which~~ *that* is authorized to incur indebtedness
 32 for public school purposes, any proposition for the incurrence of
 33 indebtedness in the form of general obligation bonds for the
 34 purpose of repairing, reconstructing, or replacing public school
 35 buildings determined, in the manner prescribed by law, to be
 36 structurally unsafe for school use, shall be adopted upon the
 37 approval of a majority of the voters of the public entity voting on
 38 the proposition at ~~such~~ *that* election; nor unless before or at the
 39 time of incurring ~~such~~ *the* indebtedness, provision shall be made
 40 for the collection of an annual tax sufficient to pay the interest on

1 ~~such~~ *the* indebtedness as it falls due, and to provide for a sinking
2 fund for the payment of the principal thereof, on or before maturity,
3 which shall not exceed forty years from the time of contracting
4 the indebtedness.

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

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

28 (1) *Construction, reconstruction, rehabilitation, or replacement*
29 *of either:*

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

34 (B) *Public safety agency facilities.*

35 (2) *Development of housing affordable to lower and moderate*
36 *income households.*

37 (3) *Acquisition or lease of real property for the public*
38 *improvements, public safety agency facilities, and housing*
39 *described in paragraphs (1) and (2) of this subdivision.*

40 (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 of the
5 voters, as the case may be, voting on any one of those propositions,
6 vote in favor thereof, the proposition shall be deemed adopted.

O