

Date of Hearing: March 27, 2019

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT

Cecilia Aguiar-Curry, Chair

ACA 1 (

Aguiar-Curry) – As Amended March 18, 2019

**SUBJECT:** Local government financing: affordable housing and public infrastructure: voter approval.

**SUMMARY:** Proposes amendments to the California Constitution to allow a city, county, or special district, with 55% voter approval, to incur bonded indebtedness or impose specified special taxes to fund projects for affordable housing, permanent supportive housing, or public infrastructure. Specifically, **this bill:**

- 1) Allows a city, county, city and county, or special district, to incur indebtedness in the form of general obligation (GO) bonds to fund the construction, reconstruction, rehabilitation, or replacement of public infrastructure, affordable housing, or permanent supportive housing for persons at risk of chronic homelessness, including persons with mental illness, or the acquisition or lease of real property for public infrastructure, affordable housing, or permanent supportive housing, as defined, to be approved by 55% of the voters voting on the proposition.
- 2) Allows a city, county, city and county, or special district, to impose, extend, or increase a sales and use tax or transactions and use tax, or parcel tax, for the purposes of funding the construction, rehabilitation, or replacement of public infrastructure, affordable housing, or permanent supportive housing for persons at risk of chronic homelessness, including persons with mental illness, or the acquisition or lease of real property for public infrastructure, affordable housing, or permanent supportive housing, as defined, if the proposition proposing that tax is approved by 55% of the voters voting on the proposition.
- 3) Defines the following terms:
  - a) “Affordable housing” to include housing developments, or portions of housing developments, that provide workforce housing affordable to households earning up to 150% of countywide median income, and housing developments, or portions of housing developments, that provide housing affordable to lower, low-, or very low income households;
  - b) “At risk of chronic homelessness” to include, but not be limited to, persons who are at high risk of long-term or intermittent homelessness, including persons with mental illness exiting institutionalized settings, including, but not limited to, jail and mental health facilities, who were homeless prior to admission, transition age youth experiencing homelessness or with significant barriers to housing stability, and others, as defined in program guidelines;
  - c) “Permanent supportive housing” to mean housing with no limit on length of stay, that is occupied by the target population, and that is linked to onside or offside services that assist residents in retaining the housing, improving their health status, and maximizing

their ability to live and, when possible, work in the community. “Permanent supportive housing” includes associated facilities, if those facilities are used to provide services to housing residents; and,

- d) “Special district” to mean an agency of the state, formed pursuant to general law or special act, for the local performance of governmental or proprietary functions with limited geographic boundaries, and includes a transit district, except that “special district” does not include a school district, redevelopment agency, or successor agency to a dissolved redevelopment agency.
- 4) Defines “public infrastructure” to include, but not be limited to, projects that provide any of the following:
- a) Water or protect water quality;
  - b) Sanitary sewer;
  - c) Treatment of wastewater or reduction of pollution from stormwater runoff;
  - d) Protection of property from impacts of sea level rise;
  - e) Parks and recreation facilities;
  - f) Open space;
  - g) Improvements to transit and streets and highways;
  - h) Flood control;
  - i) Broadband internet access service expansion in underserved areas;
  - j) Local hospital construction;
  - k) Public safety buildings or facilities, equipment related to fire suppression, emergency response equipment, or interoperable communications equipment for direct and exclusive use by fire, emergency response, police or sheriff personnel; and,
  - l) Public library facilities.
- 5) Provides specific requirements for voter protection, public notice, and financial accountability.
- 6) Prohibits a special district, other than a board of education or school district, from incurring any indebtedness or liability exceeding any applicable statutory limit, as prescribed by the statutes governing the special district as they currently read or may thereafter be amended by the Legislature.
- 7) Allows the voter approval thresholds specified above in 1) and 2), above, to apply to a local measure imposing, extending, or increasing a sales and use tax, a transactions and use tax, or a parcel tax, or GO bonded indebtedness for the purposes specified above, submitted to voters at the same election as ACA 1.

**EXISTING LAW:**

- 1) Authorizes cities and counties to impose a general tax for general governmental purposes with the approval of a majority of the voters.
- 2) Authorizes cities, counties, and special districts to impose a special tax for specified purposes with the approval of two-thirds of the voters.
- 3) Authorizes school districts, community college districts, or county offices of education to incur school bonded indebtedness with the approval of 55% of the voters voting on the bond measure, to fund the construction, reconstruction, rehabilitation, or replacement of school facilities, including the furnishing and equipping of school facilities.

**FISCAL EFFECT:** This bill has been keyed non-fiscal. It was referred to both the Local Government and Appropriations Committees on March 18, 2019.

**COMMENTS:**

- 1) **Bill Summary.** ACA 1 lowers the voter threshold from a two-thirds supermajority to 55% majority to approve local (city, county, and special district) GO bonds and certain special taxes for affordable housing, public infrastructure, and permanent supportive housing projects, and defines those terms. ACA 1 also requires the proposition submitted to the voters to contain certain accountability provisions including a requirement that the proceeds from the bonds or taxes only be used for the purposes specified in the ACA, and not for employee salaries or other operating expenses, a list of specific projects to be funded and a requirement that the city, county, or special district has evaluated alternative funding sources, and a requirement that the city, county, or special district conduct both an annual performance audit and an independent financial audit that is then posted and easily accessible to the public. A citizens' oversight committee must also be appointed to ensure that the proceeds of the bonds or special tax are expended only for the purposes described in the measure approved by the voters.

This is an author-sponsored measure.

- 2) **Author's Statement.** According to the author, "In practice, local officials propose a local bond or special tax, and then it is up to the voters in that community to decide whether they support the idea or not. Local governments and local voters know best what their communities need. In some neighborhoods this means a new library or fire station; in others this means an increase in the affordable housing stock. ACA 1 will empower local governments to address local priorities without needing to wait for state and federal funding initiatives. A majority vote tax measure is much more likely to pass, while voters would still need to overwhelmingly support a bond or special tax in order for it to be approved with 55 percent of the vote. ACA 1 will level the playing field and create parity between school districts and cities, counties, and special districts, so that all local governments have a viable financing tool to address community needs."

- 3) **Background.** The California Constitution requires a two-thirds vote at the local level for both GO bonds and special taxes, regardless of what the city, county, or special district proposes to use the funds for. Local school districts, however, must only achieve 55% voter approval for school bonds to fund the construction, reconstruction, rehabilitation, or replacement of school facilities, including the furnishing and equipping of schools, or the acquisition or lease of real property vote (Proposition 39, 2000).
- 4) **Arguments in Support.** Supporters argue that when the state seeks voter approval for a statewide measure, it requires a simple majority, but when a city or county seeks voter approval for a similar investment, they face a stringent two-thirds vote threshold. Supporters believe ACA 1 will level the playing field and create parity with school districts, which need 55% approval for school construction, so that cities, counties and special districts have a viable financing tool to help address important community needs for affordable housing, public infrastructure, and permanent supportive housing. Because of the numerous challenges in funding important public infrastructure and housing projects for their communities, supporters argue that this constitutional amendment is necessary to deal with the urgent need for investment in housing, and the chronic underfunding of local infrastructure to improve storm water management, transit development, park facilities, and streets and roads. Supporters also argue that one of the major obstacles to building housing, particularly in infill areas, is the cost of critical infrastructure, which often neither the developer or the city or county has the money to fund.
- 5) **Arguments in Opposition.** Howard Jarvis Taxpayers Association argues that “ACA 1 repeals one of the most important protections in Proposition 13 by lowering the existing two-thirds vote threshold for both local bonds and special taxes to 55 percent for a myriad of purposes. While revenue raised from ACA 1 may slightly increase the affordable housing stock, it will also have the perversely negative effect of increasing the cost of housing dramatically. Nationwide, according to the National Association of Home Builders, an increase of just \$1,000 in the new median home price knocks 120,000 potential buyers out of the market. Making it easier to approve hundreds of dollars a year in new annual bonds and parcel won’t make it easier to afford a home, and it won’t make it easier for renters, a third of whom spend half their take home pay on rent, to be able to save. With these housing expenses, it’s little wonder that California’s homeownership rate of 54 percent is well off the national average of 64 percent, and that the large majority of the 100,000 people who leave California each year make less than \$90,000. Proposition 13 is not the cause of California’s evaporating middle-class.”
- 6) **Two-Thirds Legislative Approval and Statewide Ballot Approval Requirements.** This measure requires the approval of two-thirds of the membership of each house in the Legislature, and approval by a majority of voters at a statewide ballot election to ratify the changes to the Constitution.

**REGISTERED SUPPORT / OPPOSITION:****Support**

American Planning Association, California Chapter  
Association of California Healthcare Districts  
California Association of Councils of Government  
California Association of Housing Authorities  
California Association of Sanitation Agencies  
California Coalition for Rural Housing  
California Contract Cities Association  
California Housing Consortium  
California Housing Partnership  
California Labor Federation, Afl-Cio  
California Library Association  
California Park & Recreation Society  
California Professional Firefighters  
California Special Districts Association  
California State Association Of Counties  
California State Association Of Electrical Workers  
California State Council Of Laborers  
California State Pipe Trades Council  
California Transit Association  
California Yimby  
City of Camarillo  
City Of Davis  
City of Gustine  
City Of Laguna Beach  
City Of Lodi  
City of Manteca  
City Of Moorpark  
City Of San Luis Obispo  
County of Santa Clara  
East Bay for Everyone  
East Bay Municipal Utility District  
East Bay Regional Parks District  
Greater Merced Chamber of Commerce  
Housing California  
International Union Of Elevator Constructors, Local 18  
International Union Of Elevator Constructors, Local 8  
International Union Of Operating Engineers, Cal-Nevada Conference  
League Of California Cities  
Midpeninsula Regional Open Space District  
Non-Profit Housing Association Of Northern California  
Professional Engineers In California Government  
San Diego Housing Federation  
San Mateo County-City/County Association Of Governments  
Santa Clara Valley Water District  
Silicon Valley At Home (Sv@Home)

**Support (continued)**

Solano Transportation Authority  
Southern California Association Of Nonprofit Housing  
Spur  
The Two Hundred  
Urban Counties Of California  
Ventura Council Of Governments  
Western States Council Sheet Metal, Air, Rail And Transportation

**Oppose**

Howard Jarvis Taxpayers Association  
Valley Industry and Commerce Association

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