

Assembly Constitutional Amendment No. 1

RESOLUTION CHAPTER 173

Assembly Constitutional Amendment No. 1—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, and by adding Section 2.5 to, Article XIII C thereof, by amending Section 3 of Article XIID thereof, and by amending Section 18 of Article XVI thereof, relating to local finance.

[Filed with Secretary of State September 20, 2023.]

LEGISLATIVE COUNSEL'S DIGEST

ACA 1, Aguiar-Curry. Local government financing: affordable housing and public infrastructure: 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 that would authorize a city, county, city and county, or special district to levy an ad valorem tax to service bonded indebtedness incurred to fund the construction, reconstruction, rehabilitation, or replacement of public infrastructure, affordable housing, including downpayment assistance, or permanent supportive housing, or the acquisition or lease of real property for those purposes, if the proposition proposing that tax is approved by 55% of the voters of the city, county, city and county, or special district, as applicable, and the proposition includes specified accountability requirements. The measure would prohibit a city, county, city and county, or special district from placing a proposition on the ballot pursuant to these provisions if the voters have previously approved a proposition pursuant to these provisions or the below special tax provisions until all funds from the previous proposition are committed to programs and projects listed in the specific local program or ordinance, as described. The measure, subject to certain vote thresholds, would authorize the Legislature to enact laws establishing additional accountability measures and laws for the downpayment assistance programs authorized by the measure, as specified. The measure would specify that these provisions apply to any city, county, city and county, or special district measure imposing an ad valorem tax to pay the interest and redemption charges on bonded indebtedness for these purposes that is submitted at the same election as this measure.

(2) The California Constitution conditions the imposition of a special tax by a local government upon the approval of $\frac{2}{3}$ of the voters of the local government voting on that tax.

This measure would authorize a local government to impose, extend, or increase a sales and use tax or transactions and use tax imposed in accordance with specified law or a parcel tax for the purposes of funding the construction, reconstruction, rehabilitation, or replacement of public infrastructure, affordable housing, including downpayment assistance, or permanent supportive housing, or the acquisition or lease of real property for those purposes, if the proposition proposing that tax is approved by a majority vote of the membership of the governing board of the local government and by 55% of its voters voting on the proposition and the proposition includes specified accountability requirements. The measure would prohibit a local government from placing a proposition on the ballot pursuant to these provisions if the voters have previously approved a proposition pursuant to these provisions or the above ad valorem tax provisions until all funds from the previous proposition are committed to programs and projects listed in the specific local program or ordinance, as described. The measure, subject to certain vote thresholds, would authorize the Legislature to enact laws establishing additional accountability measures and laws for the downpayment assistance programs authorized by the measure, as specified. This measure would also make conforming changes to related provisions. The measure would specify that these provisions apply to any local measure imposing, extending, or increasing a sales and use tax, transactions and use tax, or parcel tax for these purposes that is submitted at the same election as this measure.

(3) The California Constitution prohibits specified local government agencies from incurring any indebtedness exceeding in any year the income and revenue provided in that year, without the assent of $\frac{2}{3}$ of the voters and subject to other conditions. In the case of a school district, community college district, or county office of education, the California Constitution permits a 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, to be adopted upon the approval of 55% of the voters of the district or county, as appropriate, voting on the proposition at an election.

This measure would expressly prohibit 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. The measure would also similarly require the approval of 55% of the voters of the city, county, city and county, or special district, as applicable, to incur bonded indebtedness, exceeding in any year the income and revenue provided in that year, that is in the form of general obligation bonds issued to fund the construction, reconstruction, rehabilitation, or replacement of public infrastructure, affordable housing, or permanent supportive housing projects, if the proposition proposing that bond includes specified accountability requirements. The measure would specify that this 55% threshold applies to any proposition for the incurrence

of indebtedness by a city, county, city and county, or special district for these purposes that is submitted at the same election as this measure.

(4) This measure would deem another measure on the same statewide election ballot relating to state or local requirements for the imposition, adoption, creation, or establishment of taxes, charges, and other revenue measures in conflict with it and would make the other measure null and void if this measure receives more affirmative votes.

Resolved by the Assembly, the Senate concurring, That the Legislature of the State of California at its 2023–24 Regular Session commencing on the fifth day of December 2022, 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 shall 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 before July 1, 1978.

(2) Bonded indebtedness to fund 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 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, approved by 55 percent of the voters of the district or county, as appropriate, voting on the proposition on or after November 8, 2000. 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 incurred by a city, county, city and county, or special district for 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 for persons at risk of chronic homelessness, including persons with mental illness, approved by 55 percent of the voters of the city, county, city and county, or special district, 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:

(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 city, county, city and county, or special district employee salaries and other operating expenses. The administrative cost of the city, county, city and county, or special district executing the projects and programs of the proposition shall not exceed 5 percent of the proceeds from the sale of the bonds.

(ii) A requirement that the proceeds from the sale of the bonds only be spent on projects and programs that serve the jurisdiction of the city, county, city and county, or special district.

(iii) The specific local program or ordinance through which projects will be funded and a certification that the city, county, city and county, or special district has evaluated alternative funding sources.

(iv) A requirement that the city, county, city and county, or special district conduct an annual, independent performance audit to ensure that the funds have been expended pursuant to the local program or ordinance specified in clause (iii).

(v) A requirement that the city, county, city and county, or 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 public infrastructure or affordable housing projects, as applicable.

(vi) A requirement that the city, county, city and county, or special district post the audits required by clauses (iv) and (v) in a manner that is easily accessible to the public.

(vii) A requirement that the audits required by clauses (iv) and (v) will be submitted to the California State Auditor for review.

(viii) (I) A requirement that the city, county, city and county, or special district appoint a citizens' oversight committee to ensure that bond proceeds are expended only for the purposes described in the measure approved by the voters.

(II) Members appointed to an oversight committee established pursuant to subclause (I) shall receive educational training about bonds and fiscal oversight.

(ix) A requirement that an entity owned or controlled by a local official that votes on whether to put a proposition on the ballot pursuant to this section will be prohibited from bidding on any work funded by the proposition.

(B) Notwithstanding any other law, if the voters of the local government have previously approved a proposition pursuant to this paragraph or Section 2.5 of Article XIII C, the local government shall not place a proposition on the ballot pursuant to this section until all funds from the previous proposition are committed to programs and projects listed in the proposition's specific local program or ordinance described in clause (iii) of subparagraph (A) or subparagraph (C) of paragraph (2) of subdivision (a) of Section 2.5 of Article XIII C, as applicable.

(C) The Legislature may, by two-thirds vote, enact laws establishing accountability measures in addition to those listed in subparagraph (A), provided such laws are consistent with the purposes and intent of this paragraph.

(D) The Legislature may, by majority vote, enact laws for the downpayment assistance programs established pursuant to this paragraph, provided that those laws further the purposes of this paragraph.

(E) For purposes of this paragraph:

(i) (I) "Affordable housing" shall include housing developments, or portions of housing developments, that provide workforce housing affordable to households earning up to 150 percent of countywide median income, and housing developments, or portions of housing developments, that provide housing affordable to extremely low, very low, low-, or moderate-income households, as those terms are defined in state law. Affordable housing may include capitalized operating reserves, as the term is defined in state law.

(II) "Affordable housing" shall also include downpayment assistance programs.

(ii) "At risk of chronic homelessness" includes, but is not 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.

(iii) "Permanent supportive housing" means housing with no limit on length of stay, that is occupied by the target population, and that is linked to onsite or offsite 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.

(iv) “Public infrastructure” shall include, but is not limited to, projects that provide any of the following:

- (I) Water or protection of water quality.
- (II) Sanitary sewer.
- (III) Treatment of wastewater or reduction of pollution from stormwater runoff.
- (IV) Protection of property from impacts of sea level rise.
- (V) Parks and recreation facilities.
- (VI) Open space.
- (VII) Improvements to transit and streets and highways.
- (VIII) Flood control.
- (IX) Broadband internet access service expansion in underserved areas.
- (X) Local hospital construction.
- (XI) 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.
- (XII) Public library facilities.

(v) “Special district” has the same meaning as provided in subdivision (c) of Section 1 of Article XIII C and specifically includes a transit district, a regional transportation commission, and an association of governments, except that “special district” does not include a school district, redevelopment agency, or successor agency to a dissolved redevelopment agency.

(F) This paragraph shall apply to any city, county, city and county, or special district measure imposing an ad valorem tax to pay the interest and redemption charges on bonded indebtedness for those purposes described in this paragraph that is submitted at the same election as the measure adding this paragraph.

(c) (1) Notwithstanding any other provisions of law or of this Constitution, a school district, community college district, or county office of education may levy a 55-percent vote ad valorem tax pursuant to paragraph (3) of subdivision (b).

(2) Notwithstanding any other provisions of law or this Constitution, a city, county, city and county, or special district may levy a 55-percent vote ad valorem tax pursuant to paragraph (4) of subdivision (b).

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

SEC. 4. Except as provided by Section 2.5 of Article XIII C, a city, county, or special district, by a two-thirds vote of its voters voting on the proposition, may impose a special tax within that city, 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, 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) Any tax imposed by a local government is either a general tax or a special tax. A special district or agency, including a school district, has no authority to levy a general tax.

(b) A local government may not impose, extend, or increase any general tax unless and until that tax is submitted to the electorate and approved by a majority vote. 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 before 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 shall be held no later than November 6, 1996, and in compliance with subdivision (b).

(d) Except as provided by Section 2.5, a local government may not impose, extend, or increase any special tax unless and until that tax is submitted to the electorate and approved by a two-thirds vote. 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 2.5 is added to Article XIII C thereof, to read:

SEC. 2.5. (a) The imposition, extension, or increase of a sales and use tax imposed in accordance with the Bradley-Burns Uniform Local Sales and Use Tax Law (Part 1.5 (commencing with Section 7200) of Division 2 of the Revenue and Taxation Code) or a successor law, a transactions and use tax imposed in accordance with the Transactions and Use Tax Law (Part 1.6 (commencing with Section 7251) of Division 2 of the Revenue and Taxation Code) or a successor law, or a parcel tax imposed by a local government for the purpose of funding 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 for persons at risk of chronic homelessness, including persons with mental illness, is subject to approval by 55 percent of the voters in the local government voting on the proposition, if both of the following conditions are met:

(1) The proposition is approved by a majority vote of the membership of the governing board of the local government.

(2) The proposition contains all of the following accountability requirements:

(A) A requirement that the proceeds of the tax only be used for the purposes specified in the proposition, and not for any other purpose, including general employee salaries and other operating expenses of the local government. The administrative cost of the local government executing the projects and programs funded by the proposition shall not exceed 5 percent of the proceeds of the tax.

(B) A requirement that the proceeds of the tax only be spent on projects and programs that serve the jurisdiction of the local government.

(C) The specific local program or ordinance through which projects will be funded and a certification that the local government has evaluated alternative funding sources.

(D) A requirement that the local government conduct an annual, independent performance audit to ensure that the proceeds of the special tax have been expended pursuant to the local program or ordinance specified in subparagraph (C).

(E) A requirement that the local government conduct an annual, independent financial audit of the proceeds from the tax during the lifetime of that tax.

(F) A requirement that the audits required by subparagraphs (D) and (E) will be submitted to the California State Auditor for review.

(G) A requirement that the local government post the audits required by subparagraphs (D) and (E) in a manner that is easily accessible to the public.

(H) (i) A requirement that the local government appoint a citizens' oversight committee to ensure the proceeds of the special tax are expended only for the purposes described in the measure approved by the voters.

(ii) (I) A requirement that members appointed to an oversight committee established pursuant to clause (i) receive educational training about local taxation and fiscal oversight.

(II) A requirement that an entity owned or controlled by a local official that votes on whether to put a proposition on the ballot pursuant to this section will be prohibited from bidding on any work funded by the proposition.

(3) The Legislature may, by two-thirds vote, enact laws establishing accountability measures in addition to those listed in paragraph (2), provided such laws are consistent with the purposes and intent of this section.

(b) Notwithstanding any other law, if the voters of the local government have previously approved a proposition pursuant to this section or paragraph (4) of subdivision (b) of Section 1 of Article XIII A, the local government shall not place a proposition on the ballot pursuant to this section until all funds from the previous proposition are committed to programs and projects listed in the specific local program or ordinance described in subparagraph (C) of paragraph (2) of subdivision (a) of this section or clause (iii) of subparagraph (A) of paragraph (4) of subdivision (b) of Section 1 of Article XIII A.

(c) The Legislature may, by majority vote, enact laws for the downpayment assistance programs established pursuant to this section, provided that those laws further the purposes of this section.

(d) For purposes of this section, the following terms have the following meanings:

(1) (A) "Affordable housing" shall include housing developments, or portions of housing developments, that provide workforce housing affordable to households earning up to 150 percent of countywide median income, and housing developments, or portions of housing developments, that provide

housing affordable to extremely low, very low, low-, or moderate-income households, as those terms are defined in state law. Affordable housing may include capitalized operating reserves, as the term is defined in state law.

(B) “Affordable housing” shall also include downpayment assistance programs.

(2) “At risk of chronic homelessness” includes, but is not 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.

(3) “Permanent supportive housing” means housing with no limit on length of stay, that is occupied by the target population, and that is linked to onsite or offsite 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.

(4) “Local government” has the same meaning as provided in subdivision (b) of Section 1 of this article and specifically includes a transit district, a regional transportation commission, and an association of governments.

(5) “Public infrastructure” shall include, but is not limited to, the projects that provide any of the following:

(A) Water or protection of 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.

(L) Public library facilities.

(e) This section shall apply to any local measure imposing, extending, or increasing a sales and use tax imposed pursuant to the Bradley-Burns Uniform Local Sales and Use Tax Law, a transactions and use tax imposed in accordance with the Transactions and Use Tax Law, or a parcel tax imposed by a local government for those purposes described in subdivision (a) that is submitted at the same election as the measure adding this section.

Fifth—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 receiving a two-thirds vote pursuant to Section 4 of Article XIII A or receiving a 55-percent approval pursuant to Section 2.5 of Article XIII C.

(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.

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

SEC. 18. (a) A county, city, town, township, board of education, or school district, shall not 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 the election; nor unless before or at the time of incurring such indebtedness provision shall be made for the collection of an annual tax sufficient to pay the interest on such 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 40 years from the time of contracting the indebtedness. A special district, other than a board of education or school district, shall not incur 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.

(b) (1) Notwithstanding subdivision (a), any proposition for the incurrence of indebtedness in the form of general obligation bonds for the purposes described in paragraph (3) or (4) of subdivision (b) of Section 1 of Article XIII A shall be adopted upon the approval of 55 percent of the voters of the school district, community college district, county office of education, city, county, city and county, or other special district, as appropriate, voting on the proposition at an election. This subdivision shall apply to a proposition for the incurrence of indebtedness in the form of general obligation bonds for the purposes specified in this subdivision only if the proposition meets all of the accountability requirements of paragraph (3) or (4) of subdivision (b), as appropriate, of Section 1 of Article XIII A.

(2) The amendments made to this subdivision by the measure adding this paragraph shall apply to any proposition for the incurrence of indebtedness in the form of general obligation bonds pursuant to this subdivision for the purposes described in paragraph (4) of subdivision (b) of Section 1 of Article XIII A that is submitted at the same election as the measure adding this paragraph.

(c) 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 if 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.

Seventh—In the event that this measure and another measure or measures relating to state or local requirements for the imposition, adoption, creation, or establishment of taxes, charges, and other revenue measures shall appear on the same statewide election ballot, the other measure or measures shall be deemed to be in conflict with this measure. In the event that this measure receives a greater number of affirmative votes, the provisions of this measure shall prevail in their entirety, and the provisions of the other measure or measures shall be null and void.