



Government Finance & Administration Policy Committee Meeting
Friday, March 8, 2024 | 1:00PM – 3:00PM
Virtual Meeting • Via Zoom
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Supervisor Mani Grewal, Stanislaus County, Chair
Supervisor Ryan Campbell, Tuolumne County, Vice Chair
Supervisor Nathan Magsig, Fresno County, Vice Chair

- 1:00 PM** **I.** **Welcome and Introductions**
Supervisor Mani Grewal, Stanislaus County, Chair
Supervisor Ryan Campbell, Tuolumne County, Vice Chair
Supervisor Nathan Magsig, Fresno County, Vice Chair
- 1:10 PM** **II.** **Assembly Constitutional Amendment 1 (Aguiar-Curry) – ACTION ITEM**
“55% Vote for Local Affordable Housing and Public Infrastructure Act”
Eric Lawyer, Legislative Advocate, CSAC
- 2:00 PM** **III.** **Assembly Constitutional Amendment 13 (Ward) – ACTION ITEM**
“Protect and Retain the Majority Vote Act”
Eric Lawyer, Legislative Advocate, CSAC
- 3:00 PM** **IV.** **Adjourn**

ATTACHMENTS

Assembly Constitutional Amendment 1 (Aguiar-Curry) – ACTION ITEM

- Attachment 1..... CSAC Memo: “55% Vote for Local Affordable Housing and Public Infrastructure Act”
- Attachment 2..... ACA 1 (Aguiar-Curry) Recorded Support and Opposition
- Attachment 3..... ACA 1 (Aguiar-Curry) Full Text
- Attachment 4..... ACA 1 (Aguiar-Curry) Author’s Office Fact Sheet
- Attachment 5..... ACA 1 (Aguiar-Curry) CSAC Support Letter
- Attachment 6..... AB 2813 (Aguiar-Curry) Full Text
- Attachment 7..... AB 2813 (Aguiar-Curry) Author’s Office Fact Sheet *[Pending]*

Assembly Constitutional Amendment 13 (Ward) – ACTION ITEM

- Attachment 8..... CSAC Memo: "Protect and Retain the Majority Vote Act”
- Attachment 9..... ACA 13 (Ward) Recorded Support and Opposition
- Attachment 10..... ACA 13 (Ward) Full Text
- Attachment 11..... ACA 13 (Ward) Author’s Office Fact Sheet
- Attachment 12..... ACA 13 (Ward) CSAC Support Letter
- Attachment 13..... March 2022 CSAC Memo: California Business Roundtable Initiative
- Attachment 14..... CSAC Summary: California Business Roundtable Initiative

Attachment One

CSAC Memo: "55% Vote for Local Affordable Housing and Public Infrastructure Act"



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San Luis Obispo County

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Past President

Chuck Washington
Riverside County



CEO

Graham Knaus

March 8, 2024

To: CSAC Government Finance and Administration (GFA) Policy Committee

From: Eric Lawyer, Legislative Advocate
Jessica Sankus, Senior Legislative Analyst

Re: **ACTION ITEM: Assembly Constitutional Amendment 1 (Aguiar-Curry)**
“55% Vote for Local Affordable Housing and Public Infrastructure Act”

Recommendation

CSAC staff recommend that the Government Finance and Administration Policy Committee forward a recommendation to the CSAC Executive Committee of support of the “55% Vote for Local Affordable Housing and Public Infrastructure Act,” referred to in this memorandum as Assembly Constitutional Amendment (ACA) 1, authored by Assembly Member Aguiar-Curry, for the reasons outlined by staff in this memo.

CSAC Ballot Measure Review and Position Process

CSAC policy committees may recommend a position of support, oppose, or neutral on a measure, or it may take no position. A recommendation adopted by the GFA committee will be considered by the CSAC Executive Committee, and the Executive Committee’s recommendation, if any, will be considered by the CSAC Board of Directors.

Measure Status

The Legislature passed [ACA 1](#) (Chapter 173, Statutes of 2023) on September 14, 2023. Now that this measure has passed the Legislature, it will go before the California voters on the November 2024 statewide ballot for consideration. Constitutional amendments introduced in the Legislature do not require the Governor’s approval.

Measure Summary

This constitutional amendment would reduce the voter threshold from two-thirds to 55 percent for bond and special tax measures that help fund critical infrastructure, affordable housing projects, and permanent supportive housing for persons at risk of chronic homelessness. These changes would create parity for counties and other local governments for voter approval thresholds already granted to school districts.

Background

The changes proposed in this measure are not without precedent. Assembly Member Aguiar-Curry introduced similar constitutional amendments in 2017 ([ACA 4](#)), 2019 ([ACA 1](#)), and 2021 ([ACA 1](#)). These measures were substantially similar and would have lowered the voter-approval threshold to 55 percent for local governments to incur bonded indebtedness or impose specified special taxes to fund projects for housing or public infrastructure.

CSAC’s past advocacy regarding these measures includes:

- ACA 4, 2017: [Support, in coalition with other local government advocacy groups.](#)

- ACA 1, 2019: [Support](#)
- ACA 1, 2021: The measure was referred to the Assembly Local Government Committee, but was ultimately never heard. Therefore, CSAC did not have the opportunity file a notice of support.

Staff Comments

Parity with school districts

The California Constitution currently requires a two-thirds vote at the local level for both general obligation bonds and special taxes for cities, counties, and special districts. However, due to passage of Proposition 39 in 2000, local school districts can receive approval for bonded indebtedness with only a 55 percent vote threshold for the construction, reconstruction, rehabilitation, or replacement of schools.

The changes included in ACA 1 will create parity for cities, counties and special districts for voter approval thresholds already granted to school districts. In November 2022, California voters statewide [approved 72 percent of all local school bond measures](#) on local ballots (71 of 99 total measures), which only require a 55 percent voter approval threshold. In comparison, in November 2022 voters statewide approved 40 percent of all county general obligation bonds on local ballots, which require approval by two-thirds of voters.

Recent local revenue measures

In November 2016, San Luis Obispo County voters considered a half-cent transaction and use tax for a nine year period, with revenue to be dedicated for transportation projects ([Measure J-16](#)). The measure received 66.3 percent approval, and therefore failed because it did not reach the required 66.6 percent approval threshold. The county estimated that the half-cent transaction and use tax would have generated approximately \$25 million annually for local transportation infrastructure projects.

In November 2022, Fresno County proposed to continue a half-cent transaction and use tax to fund transportation projects ([Measure C](#)). Set to sunset in 2027, Measure C proposed to continue the half-cent transaction and use tax through 2057 and generate an estimated \$6.8 billion over 30 years. The measure received 58 percent voter approval, and ultimately failed as it did not meet the two-thirds voter approval threshold.

CSAC's ACA 1 Advocacy in 2023

CSAC followed this measure and kept counties updated as it moved through the legislative process throughout 2023. In accordance with CSAC's [County Platform](#) language on local revenue-generating authority (described below), CSAC advocacy staff submitted [letters of support for ACA 1](#) and provided opportunities for counties to submit letters of support for ACA 1 to the Legislature. Throughout these advocacy efforts, it was understood that if ACA 1 was approved by the Legislature, the CSAC Board of Administration would need to take an action on the proposition in order for CSAC to have a formal position on the ballot measure.

Additionally, on Thursday, August 17, Assembly Member Aguiar-Curry held a [press conference and rally in Sacramento in support of ACA 1](#). San Luis Obispo County Supervisor and CSAC President Bruce Gibson (CSAC First Vice President as of the press conference), coauthoring legislators, and other local

government advocates including the California Professional Firefighters (measure sponsor), joined Assembly Member Aguiar-Curry in supporting local communities' ability to address their critical housing and infrastructure needs. CSAC President Bruce Gibson addressed the audience in support of ACA 1 during the press conference and remarked that "The impacts are real: the two-thirds threshold has throttled crucial housing and infrastructure projects that we need to solve critical local problems."

Looking Forward

The author of ACA 1 introduced AB 2813 (Aguiar-Curry) to provide technical cleanup of ACA 1 provisions and to include an amendment to the language that had been negotiated late in the legislative process. The version of language currently in print would make the following amendments to ACA 1, if it is approved by voters in November:

- Allow for parcel tax exemptions for seniors; persons living on Supplemental Security Income for a disability, regardless of age; or persons receiving SSDI of any age, whose income does not exceed 250 percent of the 2012 federal poverty guidelines;
- Specify how citizens' oversight committees shall be convened and clarify their powers and authority; and
- Clarify the role of the state auditor in reviewing audits of ACA 1 projects, including the specific percentage of the audits it receives.

CSAC staff will use their authority to take a position on that legislation and can bring forth any recommendations to change the position of the CSAC Board of Directors on the measure if there are any changes made to ACA 1 that undermine its purpose or effectiveness. CSAC staff do not anticipate that will be a necessity due to our understanding of the author's intent and the typical role played by statutes designed to clarify pending ballot measures.

Recorded Support and Opposition

Entities and individuals that filed notice of support or opposition to ACA 1 as the measure moved through the legislative process are included in Attachment 1a.

Policy Considerations

The California [County Platform](#), CSAC's adopted statement of the basic policies of concern and interest to California's counties, states, in part, that:

Local Authority: Counties should be granted enhanced local revenue-generating authority to respond to unique circumstances in each county to provide needed infrastructure and county services. Any revenue raising actions that require approval by the electorate should require a simple majority vote.

Local revenue-generating authority as a means of local control remains a chief advocacy principle for California counties. CSAC's County Platform has long maintained that when communities have control over their services and revenues, they can choose the level of services they want from their government and the right level of revenue to provide those services, which is why lowering the two-thirds vote threshold continues to be a staple of the CSAC's advocacy efforts. Requiring a 55 percent supermajority would still require overwhelming support from local votes, giving them control over how their tax dollars are spent.

Staff Contacts

Please contact Eric Lawyer at elawyer@counties.org or Stanicia Boatner at sboatner@counties.org.

Materials and Resources for Further Reading

- Attachment 2: Recorded Support and Opposition as of September 12, 2023
- Attachment 3: [Full Text of ACA 1](#) (As Chaptered September 20, 2023)
- Attachment 4: ACA 1 (Aguiar-Curry) Fact Sheet (Dated August 7, 2023)
- Attachment 5: [CSAC ACA 1 Support Letter](#) (As of September 11, 2023)
- Attachment 6: [AB 2813 Text](#) (As introduced February 15, 2024)
- Attachment 7: AB 2813 Fact Sheet [*Pending*]
- Author's Press Release August 2023: [Assembly Speaker pro Tempore Aguiar-Curry Holds Press Conference and Rally to Boost Local Investment in Infrastructure and Affordable Housing](#)
- Michael Coleman, California Local Government Finance Almanac: [Local Revenue Measure Results, November 2022](#)
- Los Angeles Times, September 2023: [California voters will decide in 2024 whether to lower bar for new taxes and housing bonds](#)

Attachment Two

ACA 1 (Aguiar-Curry) List of Recorded Support and Opposition



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March 8, 2024

To: CSAC Government Finance and Administration (GFA) Policy Committee

From: Eric Lawyer, Legislative Advocate
Jessica Sankus, Senior Legislative Analyst

Re: **ACTION ITEM: Assembly Constitutional Amendment 1 (Aguiar-Curry)
“55% Vote for Local Affordable Housing and Public Infrastructure Act”**

Recorded Support and Opposition to ACA 1 (Aguiar Curry) as of September 2023

Support

California Professional Firefighters (co-sponsor)
California State Building and Construction Trades Council (co-sponsor)
AARP California
Abode Communities
Abundant Housing LA
Affirmed Housing
AIDS Healthcare Foundation
All Home
Alta Housing
American Council of Engineering Companies, California
American Federation of State, County and Municipal Employees, AFL-CIO
American Planning Association
American Society of Civil Engineers
Associated General Contractors, California Chapter
Association of Bay Area Governments – Metropolitan Transportation Commission
Brilliant Corners
California Alliance for Jobs
California Asphalt Pavement Association
California Association of Local Housing Finance Agencies
California Association of Recreation and Park Districts
California Association of Resource Conservation Districts
California Conference of Carpenters
California Construction and Industrial Materials Assoc.
California Democratic Party
California Fire Chiefs Association
California Housing Consortium
California Housing Partnership
California IATSE Council
California Labor Federation
California Library Association
California School Employees Association
California Special Districts Association

Support (continued)

California State Association of Counties
California State Association of Electrical Workers
California State Council of Laborers
California Stormwater Quality Association
California Transit Association
California YIMBY
Canal Alliance
Circulate San Diego
City and County of San Francisco
City of Alameda
City of Belmont
City of Emeryville
City of Fremont
City of Glendale
City of Half Moon Bay
City of Hayward
City of Kingsburg
City of Long Beach
City of Oakland
City of Palo Alto
City of Petaluma
City of Redwood City
City of San Diego
City of San Luis Obispo
City of Santa Monica
City of Santa Rosa
City of Soledad
City of Tulare
City of Walnut Creek
City of West Hollywood
City of West Sacramento
City of Winters
CivicWell
College Democrats of Sacramento State University
Council of Community Housing Organizations
County of Marin
County of Mono
County of Santa Clara
County of Yolo
Desert Recreation District
Destination: Home
Devine & Gong, Inc.
District Hospital Leadership Forum
EAH Housing
East Bay for Everyone

Support (continued)

East Bay Housing Associations
East Bay Municipal Utility District
East Bay YIMBY
Eden Housing
Enterprise
Evolve California
Fire Districts Association of California
Generation Housing
Grow the Richmond
Habitat for Humanity California
Housing Crisis Action
Housing Leadership Council of San Mateo County
Housing Trust Silicon Valley
How To ADU
International Union of Operating Engineers, Cal-Nevada Conference
League of California Cities
League of Women Voters of California
Local Initiatives Support Corporation Bay Area
Mercy Housing California
Metropolitan Transportation Commission
MidPen Housing Corporation
Midpeninsula Regional Open Space District
Mission Housing Development Corporation
Monterey Bay Economic Partnership
Mountain View YIMBY
Move LA
Mutual Housing California
Napa-Solano for Everyone
Non-Profit Housing Association of Northern California
Nor Cal Carpenters Union
North Bay Leadership Council
Northern Neighbors
Old Valley Homes and Loans
PATH
Peninsula Corridor Joint Powers Board
Peninsula for Everyone
People for Housing Orange County
Professional Engineers in California Government
Progress Noe Valley
Public Policy Advocates
Rebuild SoCal Partnership
Regional Asthma Management and Prevention
Resources for Community Development
Rural County Representatives of California
San Francisco Bay Area Planning and Urban Research Association

Support (continued)

San Francisco Foundation
San Francisco Housing Accelerator Fund
San Francisco Housing Development Corporation
San Francisco YIMBY
San Joaquin Valley Housing Collaborative
San Luis Obispo YIMBY
San Mateo County Transit District
San Ramon Valley Fire Protection District
Santa Clara Valley Water District
Santa Cruz YIMBY
Santa Rosa YIMBY
Save the Bay
Seifel Consulting, Inc.
Sierra Business Council
SLO Co YIMBY
Solano Transportation Authority
Sonoma County Area Agency on Aging
South Bay YIMBY
South Side Forward
Southern California Contractors Association
St. Mary's Center
State Building and Construction Trades Council of California
Streets for People
SV@HomeActionFund
Tenderloin Neighborhood Development Corp.
Transportation California
Tri-Valley Cities of Dublin, Livermore, Pleasanton, San Ramon, and the Town of Danville
United Contractors
United Way Bay Area
Urban Counties of California
Urban Environmentalists
Valley Water
Ventura County YIMBY
Washington Hospital Healthcare System
Western Center on Law and Poverty
Western Regional Association for Pavement Preservation
YIMBY Action

Opposition

Affordable Housing Management Association – Pacific Southwest
Alameda County Taxpayers Association
Apartment Association of Greater Los Angeles
Apartment Association of Orange County
Apartment Owners Association of America, California
Building Owners and Managers Association

Opposition (continued)

California Association of Realtors
California Attractions and Parks Association
California Business Properties Association
California Cattlemen’s Association
California Chamber of Commerce
California Independent Petroleum Association
California Land Title Association
California Manufacturers and Technology Association
California Railroads
California Rental Housing Association
California Retailers Association
California Self Storage Association
California Taxpayer Association
California Taxpayer Protection Committee
Catalysts for Local Control
Central Coast Taxpayers Association
Central Valley Taxpayers Association
Coalition of Labor, Agriculture, and Business, Santa Barbara County
Coalition of Sensible Taxpayers
Contra Costa Taxpayers Association
East Bay Rental Housing Association
Escrow Institute of California
Family Business Association of California
Glendora Chamber of Commerce
Greater San Fernando Valley Chamber of Commerce
Howard Jarvis Taxpayers Association
Kern County Taxpayers Association
Laguna Niguel Chamber of Commerce
NAIOP: Commercial Real Estate Development Association
National Federation of Independent Businesses
Orange County Business Council
Orange County Taxpayers Association
Placer County Taxpayers Association
San Diego Tax Fighters
San Gabriel Valley Economic Partnership
Silicon Valley Leadership Group
Silicon Valley Taxpayers Association
Solano County Taxpayers Association
Southern California Rental Housing Association
Sutter County Taxpayers Association
United Hospital Association
Valley Industry and Commerce Association
Ventura County Taxpayers Association
Western Manufactured Housing Communities Association

Attachment Three

ACA 1 (Aguiar-Curry) Full Text

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 XIIC 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.

Attachment Four

ACA 1 (Aguiar-Curry) Author's Office Fact Sheet



SUMMARY

ACA 1 will propose to voters a constitutional amendment to lower the necessary vote threshold from a two-thirds supermajority to 55 percent to approve local general obligation (GO) bonds and special taxes for affordable housing and public infrastructure projects.

ACA 1 is targeted to the urgent needs of local communities. This measure gives local governments a more realistic financing option to fund an increase in the supply of affordable housing, and to address the numerous local public infrastructure challenges cities, counties, and special districts are facing.

BACKGROUND

The California Constitution requires a two-thirds vote at the local level for both GO bonds and special taxes.

However, local school districts must only achieve 55 percent voter approval for school bonds to fund construction, reconstruction, rehabilitation, replacement of school facilities, furnishing of schools, or the acquisition or lease of real property.

From 2001 to 2013, over 2,200 local revenue measures have been placed before voters concerning school, city, county, or special district taxes or bonds. Majority vote tax measures have proven to be much more likely to pass, while just half of two-thirds vote measures succeeded. School bonds with a 55 percent have been the most successful, with four out of every five passing. In contrast, just half of two-thirds vote measures succeeded. A 55 percent vote threshold for special taxes would have made a dramatic difference. Nearly 80 percent of all two-thirds supermajority measures garnered more than 55 percent of “yes” votes.

1) AFFORDABLE HOUSING NEED

According to the Department of Housing & Community Development (HCD), in the last 10 years California has built an average of 80,000 homes per year, while the need to keep up with the housing need is approximately 180,000 homes per year. There is a shortfall of over one million rental homes affordable to extremely low and very low-income households.

2) LACK OF FUNDING FOR PUBLIC INFRASTRUCTURE

Cities, counties, and special districts face numerous challenges in securing funding for important local public infrastructure projects, including:

Water. Much of the state’s water supply, wastewater, and flood control infrastructure is aging. Rebuilding typically requires costly upgrades to meet increasingly high standards for water quality and infrastructure safety. In the last few decades, new mandates on managing stormwater runoff and climate change have added increased costs and heightened levels of management complexity. The water sector has historically relied heavily on locally generated revenues, which means that Proposition 13 (1978), Proposition 218 (1996), and Proposition 26 (2010), have made it increasingly difficult for local agencies to raise funds.

Parks and Recreation. According to the Statewide Comprehensive Outdoor Plan of 2015, 62 percent of Californians live in areas with less than 3 acres of parkland per 1,000 residents (the recognized standard for adequate parks). Additionally, 9 million people do not have a park within a half mile of their home.

Other Local Needs. Our local governments across the state know best what specific priorities matter most in their communities. For some, funding the costs of a new library or other public building is a means to create local engagement and encourage learning. For others, funding the expansion of broadband is a concern that can seem financially impossible. Strained public safety and emergency response resources in many regions could also benefit from much needed investment. Plus, with discussions underway in Washington D.C. about a possible federal infrastructure initiative, the ability to provide matching-dollars for federal grants is critical to being competitive for new grants.

3) IMPACT OF TWO-THIRDS VOTER REQUIREMENT

The California Constitution limits the opportunity for communities to decide to tax themselves to provide funding for local projects that meet goals and laws approved by the majority. One-third of local voters have the power to overrule fiscal decisions.

THIS CONSTITUTIONAL AMENDMENT

ACA 1 will lower the constitutional vote threshold to 55 percent for both GO bonds and special taxes, when proposed specifically for the construction, reconstruction, rehabilitation, or replacement of public infrastructure, affordable housing, or supportive housing.

ACA 1 includes historic accountability measures for voter protection, public notice, annual auditing and fiscal accountability. The measures specify that:

- Funds must be used only for housing and supportive infrastructure – no salaries or operating expenses.
- Local initiative expenditure plan must:
 - Identify specific projects or programs to be funded.
 - Certify alternative funding sources have been evaluated.
- Requires annual, independent performance and financial audits, until all proceeds have been expended to ensure funds are expended as intended.
- Requires audits to be posted and available to the public.
- Requires appointment of citizen’s oversight committee to oversee funds are expended as approved by voters.
- Requires members of a citizen oversight committee to receive educational training about bonds and fiscal oversight.
- No entity owned or controlled by a local official voting to put an ACA 1 initiative on the ballot will be allowed to bid for work funding by that initiative.
- The State Auditor shall review and oversee financial and performance audits.
- Requires a cap on administrative expenses at 5%.
- All proceeds of an ACA 1 initiative shall be committed for projects and programs in the expenditure plan before a local government can proceed with another initiative under ACA 1.
- All ACA 1 initiative funding shall be spent on projects and programs that serve the jurisdiction where the initiative is passed.

In practice, local officials propose a local bond or special tax, and then the voters in that community decide whether they support the idea or not. The voters would still need to overwhelmingly (with 55 percent of the vote) support a bond or special tax in order for it to be approved. 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.

ACA 1 defines “public infrastructure” to include:

- Projects to provide water or protect water quality, sanitary sewer, treat wastewater or reduce pollution from storm water runoff;
- Protect property from impacts of sea level rise;
- Public buildings, including fire and police facilities;
- Parks, open space, and recreation facilities;
- Improvements to transit and streets and highways;
- Flood control;
- Public library facilities;
- Broadband expansion in underserved areas;
- Local hospital construction;
- Public safety buildings, facilities, and equipment;
- Public library facilities.

ACA 1 defines “affordable housing” and “supportive housing” to include:

- Housing developments that provide workforce housing affordable to households earning up to 150% of countywide median income;
- Housing developments that provide housing affordable to lower, low, or very low-income households, as those terms are defined in state law;
- Targeted housing that is linked to 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.

This measure proposes an amendment to the California Constitution, which means that if passed by the Legislature, the proposal would then go to the ballot for voter approval during the next statewide election.

SUPPORT

California Professional Firefighters (co-sponsor)
State Building and Construction Trades Council of California (co-sponsor)

AARP

Abode Communities

Abundant Housing LA

Affirmed Housing

All Home

Alta Housing

American Council of Engineering Companies, California

American Federation of State, County and Municipal Employees (AFSCME), AFL-CIO

American Planning Association

American Society of Civil Engineers

Associated General Contractors, California Chapter

Association of Bay Area Governments - Metropolitan
Transportation Commission
Brilliant Corners
California Alliance for Jobs
California Asphalt Pavement Association
California Association of Local Housing Finance Agencies
California Association of Recreation and Park Districts
California Conference of Carpenters
California Construction and Industrial Materials Assoc.
California Democratic Party
California Fire Chiefs Association
California Housing Consortium
California Housing Partnership Corporation
California IATSE Council
California Labor Federation
California Library Association
California School Employees Association
California Special Districts Association
California State Association of Counties
California State Association of Electrical Workers
California State Council of Laborers
California Stormwater Quality Association
California Transit Association
California YIMBY
Canal Alliance
Circulate San Diego
City and County of San Francisco
City of Alameda
City of Belmont
City of Emeryville
City of Fremont
City of Half Moon Bay
City of Hayward
City of Kingsburg
City of Long Beach
City of Oakland
City of Palo Alto
City of Petaluma
City of San Diego
City of Santa Rosa
City of Santa Monica
City of San Luis Obispo
City of Soledad
City of Tulare
City of Walnut Creek
City of West Hollywood
City of West Sacramento
City of Winters
Civicwell
Council of Community Housing Organizations
County of Marin
County of Santa Clara

County of Yolo
Desert Recreation District
Destination: Home
Devine & Gong, INC.
District Hospital
EAH Housing
East Bay for Everyone
East Bay Housing Associations
East Bay Municipal Utility District
East Bay YIMBY
Eden Housing
Enterprise
Evolve California
Fire Districts Association of California
Generation Housing
Grow the Richmond
Habitat for Humanity California
How to ADU
Housing Leadership Council of San Mateo County
Housing Trust Silicon Valley
International Union of Operating Engineers, Cal-Nevada
Conference
League of California Cities
League of Women Voters of California
Local Initiatives Support Corporation (LISC) Bay Area
Mercy Housing California
Metropolitan Transportation Commission
MidPen Housing Corporation
Midpeninsula Regional Open Space District
Mission Housing Development Corporation
Monterey Bay Economic Partnership
Mountain View YIMBY
Move LA
Mutual Housing California
Napa-Solano for Everyone
Non-profit Housing Association of Northern California
Nor Cal Carpenters Union
North Bay Leadership Council
Northern Neighbors
Old Valley Homes and Loans
PATH
Peninsula Corridor Joint Powers Board
Peninsula For Everyone
People for Housing Orange County
Professional Engineers in California Government
Progress Noe Valley
Public Policy Advocates
Rebuild SoCal Partnership
Regional Asthma Management and Prevention
Resources for Community Development
Rural County Representatives of California

San Francisco Bay Area Planning and Urban Research
Association
San Francisco Foundation
San Francisco Housing Accelerator Fund
San Francisco Housing Development Corporation
San Francisco YIMBY
San Joaquin Valley Housing Collaborative
San Luis Obispo YIMBY
San Mateo County Transit District
San Ramon Valley Fire Protection District
Santa Clara Valley Water District
Santa Cruz YIMBY
Santa Rosa YIMBY
Save The Bay
Seifel Consulting, Inc.
SLOCo YIMBY
Solano Transportation Authority
Sonoma County Area Agency on Aging
South Bay YIMBY
South Side Forward
Southern California Contractors Association
St. Mary's Center
Streets for People
State Building and Construction Trades Council of
California
SV@HomeActionFund
Tenderloin Neighborhood Development Corp.
Transportation California
Tri-Valley Cities of Dublin, Livermore, Pleasanton, San
Ramon, and the Town of Danville
Urban Counties of California
Urban Environmentalists
United Contractors
United Way Bay Area
Valley Water
Ventura County YIMBY
Washington Hospital Healthcare System
Western Center on Law and Poverty
Western Regional Association for Pavement
Preservation
YIMBY Action

CONTACT

Rita Durgin, Legislative Aide
Rita.Durgin@asm.ca.gov
(916) 319-2004

Attachment Five

ACA 1 (Aguiar-Curry) CSAC Support Letter



OFFICERS

President

Chuck Washington
Riverside County

1st Vice President

Bruce Gibson
San Luis Obispo County

2nd Vice President

Jeff Griffiths
Inyo County

Past President

Ed Valenzuela
Siskiyou County



CEO

Graham Knaus

September 11, 2023

The Honorable Anthony Portantino, Chair
Senate Committee on Appropriations
State Capitol, Room 412
Sacramento, CA 95814

**RE: ACA 1 (Aguiar-Curry): Local government financing: affordable housing and public infrastructure: voter approval
As Amended – September 5, 2023 – SUPPORT**
Set for Hearing – September 12, 2023 – Senate Committee on Appropriations

Dear Senator Portantino:

The California State Association of Counties (CSAC), representing all 58 counties in the state, writes in support of Assembly Constitutional Amendment (ACA) 1, which would empower our local communities to address their critical housing and infrastructure needs. ACA 1 would responsibly empower our local communities by reducing the voter threshold for approval of bond and special tax measures that help fund critical infrastructure, affordable housing projects, and permanent supportive housing for persons at risk of chronic homelessness.

ACA 1 includes important safeguards that prevent excessive administrative overhead, requires local government to appoint a citizen’s oversight committee to ensure special tax revenue are spent on their intended purpose, and requires members of the oversight committee to receive educational training on fiscal oversight. As an additional protection for taxpayers, ACA 1 also prevents local governments from placing a bond or special tax measure on the ballot until all funds from a previous proposition are committed to programs and projects listed in the specific local program or ordinance, as described.

The California Constitution currently requires a two-thirds vote at the local level for both general obligation bonds and special taxes, which serve as vital financial tools for local governments, regardless of the intended use for the funds by cities, counties, or special districts in service of their residents. However, local school districts can seek approval for bonded indebtedness with only a 55 percent vote threshold for the construction, reconstruction, rehabilitation, or replacement of schools. The changes included in ACA 1 will create parity for cities, counties and special districts for voter approval thresholds already granted to school districts.

Markedly, ACA 1 lowers the voter approval threshold for issues that are most pressing to the quality of life and well-being of all Californians, including increased local supplies of affordable housing.

Meeting the challenges of our homelessness crisis requires a comprehensive, holistic strategy that includes increasing our stock of affordable housing and supporting those who are at chronic risk of homelessness. Crucially, our local communities cannot fully address the affordable housing shortage without significant resources.

The goals of ACA 1 are aligned with the goals and policy recommendations found in CSAC's [AT HOME](#) plan, the county comprehensive plan to address homelessness. Developed through a lengthy all-county effort, the AT HOME plan (Accountability, Transparency, Housing, Outreach, Mitigation & Economic Opportunity) outlines clear responsibilities and accountability aligned to authority, resources, and flexibility for all levels of government within a comprehensive homelessness response system. It includes a full slate of policy recommendations to help build more housing, prevent individuals from becoming homeless, and better serve those individuals who are currently experiencing homelessness.

Absent ongoing state funding for local governments to address homelessness and the supply of affordable housing, which is a pillar of our AT HOME Plan, local governments have no choice but to seek funding from local sources to increase and maintain housing units across the spectrum of needs. ACA 1 provides an opportunity for communities to continue to do their fair share to support California's most vulnerable residents.

Increasing local capacity to procure and produce the necessary infrastructure to serve our unhoused neighbors is far from being the singular local benefit of ACA 1. This measure would also allow local voters to elect to increase their community's funding for parks and recreation, libraries, maintenance of streets and highways, protection against sea level rise, and more. The necessity for this measure is illustrated, notably, by the 2021 California Statewide Local Streets and Roads Needs Assessment which reports that 55 out of 58 counties are considered at risk of, or presently have, poor pavements. Further, the Federal Environmental Protection Agency estimates that California communities, collectively, have water infrastructure needs of nearly \$64.7 billion. Now, more than ever, is the appropriate time to empower California residents to choose to fund solutions for their communities.

ACA 1 preserves the need for overwhelming voter support for a bond or special tax in order for it to be approved, thus protecting voters' control over how their tax dollars are spent. ACA 1 also provides specific requirements for voter protection, public notice, and financial accountability. With these protections in place, communities should be able to decide the appropriate level of taxation to meet their local needs.

For these reasons, CSAC is in strong support of ACA 1 and respectfully requests your AYE vote. If you have any questions about our position, please do not hesitate to contact me at elawyer@counties.org.

Sincerely,



Eric Lawyer
Legislative Advocate

cc: The Honorable Cecilia Aguiar-Curry, 4th District
Members and Staff, Senate Committee on Appropriations
Cory Botts, Consultant, Republican Senate Caucus

Attachment Six

AB 2831 (Aguiar-Curry) Full Text

ASSEMBLY BILL

No. 2813

Introduced by Assembly Member Aguiar-Curry

February 15, 2024

An act to add Article 4.1 (commencing with Section 53738) to Chapter 4 of Part 1 of Division 2 of Title 5 of the Government Code, relating to government finance.

LEGISLATIVE COUNSEL'S DIGEST

AB 2813, as introduced, Aguiar-Curry. Government Investment Act.

Existing law, known as the Proposition 218 Omnibus Implementation Act, defines various terms and prescribes procedures and parameters for local jurisdictions to comply with specified provisions of the California Constitution.

The Legislature adopted ACA 1 at the 2023–24 Regular Session of the Legislature, which, if approved by the voters, would amend and add provisions of the California Constitution to (1) create an additional exception to the 1% limit on the ad valorem tax rate on real property by authorizing a local jurisdiction to levy an ad valorem tax to service bonded indebtedness incurred to fund the construction, reconstruction, rehabilitation, or replacement of public infrastructure, affordable housing, or permanent supportive housing, if the proposition proposing that tax is approved by 55% of the voters in that local jurisdiction; and (2) authorize a local jurisdiction to impose, extend, or increase a sales and use tax to fund the construction, reconstruction, rehabilitation, or replacement of public infrastructure, affordable housing, or permanent supportive housing, if the proposition proposing that tax is approved by 55% of the voters in that local jurisdiction.

Pursuant to the existing law described above, ACA 1 is scheduled to appear on the ballot at the November 5, 2024, statewide general election.

This bill would authorize a local government that imposes a tax under ACA 1 to commit revenues to affordable housing programs, including downpayment assistance, first-time home buyer programs, and owner-occupied affordable housing rehabilitation programs. The bill would require a local government to ensure that any project that is funded with ACA 1 bonded indebtedness or ACA 1 special taxes to have an estimated useful life of at least 15 years or 5 years if the funds are for specified public safety buildings, facilities, and equipment. The bill would specify that a local government may commit revenues derived from ACA 1 bonded indebtedness or an ACA 1 special tax to projects or programs administered by a nonprofit organization for affordable housing or permanent supportive housing purposes.

This bill would specify that a parcel tax imposed pursuant to ACA 1 may include an exemption for persons who are 65 years of age or older, receiving Supplemental Security Income for a disability, or receiving Social Security Disability Insurance Benefits and whose yearly income does not exceed specified amounts.

ACA 1, if approved by the voters, would require a proposition approving ACA 1 bonded indebtedness or an ACA special tax to include specified accountability requirements, including a requirement that the local government conduct annual independent performance and financial audits, as specified, and a requirement that the local government appoint a citizens' oversight committee to ensure that revenues are expended only for the purposes described in the measure. ACA 1, if approved by the voters, would require a local government to submit the annual independent performance and financial audits to the California State Auditor for review. ACA 1, if approved by the voters, would authorize the Legislature to enact additional accountability measures, provided that the accountability measures are consistent with the purposes and intent of ACA 1.

This bill would require the California State Auditor to review an unspecified percentage of annual independent performance audits and the annual independent financial audits that must be conducted under ACA 1 based on best practices. The bill would require the California State Auditor to establish best practices for the purposes for these provisions.

The bill would establish various requirements regarding the appointment and function of a citizens' oversight committee. In this

regard, the bill would state the purpose of a citizens’ oversight committee is to inform the public concerning the expenditure of revenues derived from ACA 1 bonded indebtedness and ACA 1 special taxes. The bill would require a citizens’ oversight committee to actively review and report on the proper expenditure of taxpayers’ money for the purposes described in ACA 1 and advise the public as to whether a local government is in compliance with the requirements of ACA 1.

Because the bill would enact additional accountability measures for ACA 1 taxes, the bill may only be adopted by a 2/3 vote of the Legislature.

ACA 1, if approved by the voters, would prohibit a local government from placing a proposition on the ballot pursuant to ACA 1 if the voters have previously approved an ACA 1 proposition until all funds from the previous proposition are committed to programs and projects, as described.

This bill would defined “committed” for purposes of ACA 1 to mean all of the annual tax revenue from ACA 1 bonded indebtedness or an ACA 1 special tax is dedicated to specific projects or programs.

The bill would state that its provisions are severable.

The bill would provide that these provisions would become operative on January 1, 2025, but only if Assembly Constitutional Amendment 1 of the 2023–23 Regular Session is approved by the voters.

Vote: 2/3. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Article 4.1 (commencing with Section 53738) is
2 added to Chapter 4 of Part 1 of Division 2 of Title 5 of the
3 Government Code, to read:

4

5 Article 4.1. Local Government Investment Act

6

7 53738. For purposes of this article:

8 (a) “ACA 1 bonded indebtedness” means bonded indebtedness
9 incurred by a local government pursuant to paragraph (4) of
10 subdivision (b) of Section 1 of Article XIII A of the California
11 Constitution.

1 (b) “ACA 1 special tax” means any tax imposed by a local
2 government pursuant to Section 2.5 of Article XIII C of the
3 California Constitution.

4 (c) “Audits” means the annual independent performance audit
5 and the annual independent financial audit conducted by a local
6 government pursuant to clauses (iv) and (v) of subparagraph (A)
7 of paragraph (4) of subdivision (b) of Section 1 of Article XIII A
8 of the California Constitution and subparagraphs (D) and (E) of
9 paragraph (2) of subdivision (a) of Section 2.5 of Article XIII C
10 of the California Constitution.

11 (d) “Citizens’ oversight committee” means a citizens’ oversight
12 committee appointed to oversee proceeds from ACA 1 bonded
13 indebtedness or an ACA 1 special tax.

14 (e) “Local government” means any county, city, city and county,
15 including a charter city or county, any special district, a transit
16 district, a regional transportation commission, an association of
17 governments, or any other local or regional governmental entity.

18 53738.1. (a) For purposes of paragraph (4) of subdivision (b)
19 of Section 1 of Article XIII A, Section 2.5 of Article XIII C, and
20 subdivision (b) of Section 18 of Article XVI of the California
21 Constitution, “affordable housing” includes rental and
22 for-ownership housing units.

23 (b) A local government may commit revenue from ACA 1
24 bonded indebtedness or an ACA 1 special tax to affordable housing
25 programs, which include, but are not limited to, all of the following:

- 26 (1) Downpayment assistance programs.
27 (2) First-time home buyer programs.
28 (3) Owner-occupied affordable housing rehabilitation programs.

29 53738.2. (a) Except as provided in subdivision (b), a local
30 government shall ensure that any project that is funded with ACA
31 1 bonded indebtedness or an ACA 1 special tax has an estimated
32 useful life of at least 15 years.

33 (b) Notwithstanding subdivision (a), expenditures made pursuant
34 to subclause (XI) of clause (iv) of subparagraph (E) of paragraph
35 (4) of subdivision (b) of Section 1 of Article XIII A and
36 subparagraph (K) of Paragraph (5) of Subdivision (d) of Section
37 2.5 of Article XIII C of the California Constitution shall have an
38 estimated use of life of at least five years.

39 53738.3. A local government may commit revenues derived
40 from ACA 1 bonded indebtedness or an ACA 1 special tax to

1 projects or programs administered by a nonprofit organization that
2 is exempt from taxation under Section 501(c)(3) of Title 26 of the
3 United States Code for the purpose of constructing, reconstructing,
4 rehabilitating, or replacing affordable housing or permanent
5 supportive housing for persons at risk of chronic homelessness.

6 53738.4. A parcel tax imposed pursuant to Section 2.5 of
7 Article XIII C of the California Constitution may include an
8 exemption for any of the following taxpayers:

9 (a) Persons who are 65 years of age or older.

10 (b) Persons receiving Supplemental Security Income for a
11 disability, regardless of age.

12 (c) Persons receiving Social Security Disability Insurance
13 benefits, regardless of age, whose yearly income does not exceed
14 250 percent of the 2012 federal poverty guidelines issued by the
15 United States Department of Health and Human Services.

16 53738.5. (a) The California State Auditor shall review at least
17 _____ percent of the audits it receives each year based on best
18 practices.

19 (b) The California State Auditor shall establish best practices
20 for purposes of reviewing audits pursuant to subdivision (a).

21 53738.6. (a) A local government shall appoint a citizens'
22 oversight committee within 60 days of certifying an election that
23 approves ACA 1 bonded indebtedness or an ACA 1 special tax.

24 (b) (1) The purpose of the citizens' oversight committee shall
25 be to inform the public concerning the expenditure of revenues
26 derived from ACA 1 bonded indebtedness and ACA 1 special
27 taxes.

28 (2) The citizens' oversight committee shall actively review and
29 report on the proper expenditure of taxpayers' money for the
30 construction, reconstruction, rehabilitation, or replacement of
31 public infrastructure, affordable housing, or permanent supportive
32 housing for persons at risk of chronic homelessness and the
33 acquisition or lease of real property for public infrastructure,
34 affordable housing, or permanent supportive housing for persons
35 at risk of chronic homelessness.

36 (3) The citizens' oversight committee shall advise the public as
37 to whether a local government is in compliance with the
38 requirements of paragraph (4) of subdivision (b) of Section 1 of
39 Article XIII A of the California Constitution or Section 2.5 of
40 Article XIII C of the California Constitution, as applicable.

- 1 (4) The citizens’ oversight committee shall convene to provide
2 oversight for, but not be limited to, all of the following:
- 3 (A) Ensuring that revenues derived from ACA 1 bonded
4 indebtedness and ACA 1 special taxes are expended only for the
5 purposes described in paragraph (4) of subdivision (b) of Section
6 1 of Article XIII A of the California Constitution or Section 2.5
7 of Article XIII C of the California Constitution, as applicable.
- 8 (B) Ensuring that funds are not used for employee salaries or
9 other operating expenses, as prohibited by subparagraph (A) of
10 paragraph (4) of subdivision (b) of Section 1 of Article XIII A of
11 the California Constitution or Section 2.5 of Article XIII C of the
12 California Constitution, as applicable.
- 13 (C) Ensuring that the administrative costs of the local
14 government executing the projects and programs do not exceed 5
15 percent of the proceeds derived from the ACA 1 bonded
16 indebtedness or ACA 1 special taxes, as prohibited by subparagraph
17 (A) of paragraph (4) of subdivision (b) of Section 1 of Article XIII
18 A of the California Constitution or Section 2.5 of Article XIII C
19 of the California Constitution, as applicable.
- 20 (c) In furtherance of its purpose, the citizens’ oversight
21 committee may engage in any of the following activities:
- 22 (1) Receiving and reviewing copies of the annual, independent
23 performance audit required by subparagraph (A) of paragraph (4)
24 of subdivision (b) of Section 1 of Article XIII A of the California
25 Constitution or Section 2.5 of Article XIII C of the California
26 Constitution, as applicable.
- 27 (2) Receiving and reviewing copies of the annual, independent
28 financial audit required by subparagraph (A) of paragraph (4) of
29 subdivision (b) of Section 1 of Article XIII A of the California
30 Constitution or Section 2.5 of Article XIII C of the California
31 Constitution, as applicable.
- 32 (3) Inspecting public infrastructure, affordable housing, or
33 permanent supportive housing to ensure that revenues derived
34 from ACA 1 bonded indebtedness or ACA 1 special taxes are
35 expended in compliance with the requirements of paragraph (4)
36 of subdivision (b) of Section 1 of Article XIII A of the California
37 Constitution or Section 2.5 of Article XIII C of the California
38 Constitution, as applicable.
- 39 (4) Receiving and reviewing copies of any local program or
40 ordinance through which projects or programs will be funded with

1 revenues derived from ACA 1 bonded indebtedness or ACA 1
2 special taxes.

3 (5) Reviewing efforts by the local government to maximize
4 revenues derived from ACA 1 bonded indebtedness or ACA 1
5 special taxes by implementing cost-saving measures, including,
6 but not limited to, all of the following:

7 (A) Mechanisms designed to reduce the costs of professional
8 fees.

9 (B) Mechanisms designed to reduce the costs of site preparation.

10 (C) Mechanisms designed to reduce costs by incorporating
11 efficiencies in public infrastructure, affordable housing, or
12 permanent supportive housing design.

13 (D) Recommendations regarding the use of cost-effective and
14 efficient reusable public infrastructure, affordable housing, or
15 permanent supportive housing plans.

16 53738.7. For purposes of clause (ix) of subparagraph (A) of
17 paragraph (4) of subdivision (b) of Section 1 of Article XIII A of
18 the California Constitution and subclause (II) of clause (ii) of
19 subparagraph (H) of paragraph (2) of subdivision (a) of Section
20 2.5 of Article XIII C of the California Constitution, members of
21 the legislative body of the local government and members of the
22 citizens' oversight committee shall be subject to Section 1090.

23 53738.8. For purposes of subparagraph (B) of paragraph (4)
24 of subdivision (b) of Section 1 of Article XIII A of the California
25 Constitution and subdivision (b) of Section 2.5 of Article XIII C
26 of the California Constitution, "committed" means all of the current
27 and future annual tax revenue from the ACA 1 bonded indebtedness
28 or the ACA 1 special tax is dedicated to specific projects or
29 programs.

30 53738.9. The provisions of this article are severable. If any
31 provision of this article or its application is held invalid, that
32 invalidity shall not affect other provisions or applications that can
33 be given effect without the invalid provision or application.

34 SEC. 2. Section 1 of this act shall become operative only if
35 Assembly Constitutional Amendment 1 of the 2023–24 Regular
36 Session is approved by the voters and, in that event, shall become
37 operative on January 1, 2025.

O

Attachment Seven

AB 2831 (Aguiar-Curry) Author's Office Fact Sheet [Pending]

The AB 2813 (Aguiar-Curry) fact sheet was not available at the time this memo was shared. The fact sheet will be provided when it becomes available.

Attachment Eight

CSAC Memo: "Protect and Retain the Majority Vote Act"



OFFICERS

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1st Vice President

Jeff Griffiths

Inyo County

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Santa Clara County

Past President

Chuck Washington

Riverside County



CEO

Graham Knaus

March 8, 2024

To: CSAC Government Finance and Administration (GFA) Policy Committee

From: Eric Lawyer, Legislative Advocate
Jessica Sankus, Senior Legislative Analyst

Re: **ACTION ITEM: Assembly Constitutional Amendment 13 (Ward)**
“Protect and Retain the Majority Vote Act”

Recommendation

CSAC staff recommend the committee forward a recommendation to the CSAC Executive Committee of support of the “Protect and Retain the Majority Vote Act,” referred to in this memorandum as Assembly Constitutional Amendment (ACA) 13, authored by Assembly Member Ward, for the reasons outlined by staff in this memo.

CSAC Ballot Measure Review and Position Process

CSAC policy committees may recommend a position of support, oppose, or neutral on a measure, or it may take no position. A recommendation adopted by the GFA committee will be considered by the CSAC Executive Committee, and the Executive Committee’s recommendation, if any, will be considered by the CSAC Board of Directors.

Measure Status

The Legislature passed [ACA 13](#) (Chapter 176, Statutes of 2023) on September 14, 2023. Now that this measure has passed the Legislature, it will go before the California voters on the November 2024 statewide ballot for consideration. Constitutional amendments introduced in the legislature do not require the Governor’s approval.

Measure Summary

This constitutional amendment would require that any ballot initiative that seeks to raise a vote requirement be approved the same portion of votes the initiative would require. For example, if ACA 13 were in place, an initiative that would raise vote requirements from a simple majority to two-thirds of the vote would require approval by two-thirds of voters.

Background

The California Constitution provides electors the power to propose statutes and amendments to the Constitution ([California Constitution, Article 2, Section 8](#)). To amend the Constitution or statutes via ballot initiative, the initiative must be approved by a majority of [votes \(California Constitution, Article 2, Section 10\)](#).

Nothing in the Constitution prohibits a simple majority of voters to raise vote requirements, allowing the slightest majority of voters to make it more difficult for future electors to approve initiatives they believe will improve their state or their community. ACA 13 would retain voters’ ability to raise vote requirements if they choose, but simply proposes that such drastic changes deserve the approval of that same portion of voters.

ACA 13 would also maintain that local governing bodies have the power to hold advisory votes on any issue of governance and specifies that such advisory votes must be approved by a simple majority of electors.

Although CSAC staff have the authority to take positions on legislation without explicit direction from the Board of Directors, the Executive Committee, or their respective policy committee, staff sought direction from the Executive Committee on ACA 13 soon after its introduction in 2023 due to the high profile nature of the measure and because the CSAC platform does not include language specific to the concept, although it does include several policies that are furthered by the measure. The Executive Committee adopted the “Support” position for legislative advocacy as recommended by CSAC staff on August 20, 2023. CSAC advocacy staff, in coalition with other local government advocates, [submitted letters of support for ACA 13](#) to the Legislature in 2023.

Staff Comments

Overall

At its core, ACA 13 is designed to accomplish two goals: provide lasting constitutional protection for voter power broadly and to explicitly raise vote requirements for a ballot initiative set for the November 2024 ballot. The deceptively titled “[Taxpayer Protection and Government Accountability Act](#),” sponsored by the California Business Roundtable (CBRT), will appear on the statewide ballot in November 2024 and explicitly threatens the local revenue-generating authority of the state and local governments (Initiative 21-0042). The measure is referred to throughout the remainder of this memorandum as the “CBRT initiative.”

CSAC’s CBRT Initiative Advocacy in 2022 and 2023

The CSAC Board of Directors voted to oppose the CBRT initiative on March 3, 2022, taking action to oppose the measure before it qualified for the ballot. Attached to this memorandum is a memorandum shared with the CSAC Board of Directors on March 3, 2022, when they voted to oppose the CBRT initiative. That memorandum provides a thorough accounting of the core provisions of the CBRT measure and explains how the CSAC platform unequivocally expresses why the measure is counter to the policies and ideals of the family of California counties.

In summary, the Board of Directors voted to oppose the measure because it would restrict the ability of the state, counties, other local agencies, and the electorate to approve or collect taxes, fees, and other revenues and imperil local initiatives that have already been approved by voters. Specifically, the CBRT initiative would:

- Apply the requirements of the initiative to any new or increased tax or fee adopted by the Legislature, a Board of Supervisors, or the local voters after January 1, 2022
- Place the burden on government of proving by “clear and convincing evidence” that a fee or charge is not a tax and that it is reasonable. Local governments restricted to charging fees beyond “actual cost” of service, defined as the minimum amount necessary to reimburse the government for the cost of providing the service, rather than the existing standard for “reasonable cost.”

- Establish that no fee or charge or exaction regulating vehicle miles traveled can be imposed as a condition of property development or occupancy.
- Overturn the *Upland* decision, so special taxes proposed by initiative are subject to the same rules as 2/3rd voter approval as special taxes placed on the ballot by a board of supervisors.
- Prohibit voters from amending a County Charter to impose, extend, or increase a tax or fee.
- Prohibit local advisory questions from appearing on the same ballot as a general tax measure. Instead, the title and summary of a ballot measure must include the use of the revenue derived from the tax—effectively subjecting general tax increases to the 2/3rd vote threshold if local government want to use revenue for a specific purpose.

Following this action, throughout 2022 and 2023, local governments and the state have coalesced in the interest of preserving fiscal sustainability and warding off what has been described as the “perilous” impact of the CBRT initiative.

The Governor filed a writ petition to the California Supreme Court, asserting that the CBRT initiative is an unconstitutional revision of the California Constitution and asking the court to order that the initiative not be placed on the November 2024 ballot. CSAC joined a coalition of local government organizations in providing amicus support for the Governor’s writ petition in September 2023 and filed an amicus curiae brief in support of the Governor’s petition in January 2024.

CBRT Initiative Fiscal Impact and Retroactivity

The Legislative Analyst’s Office (LAO) [published an analysis of the CBRT initiative](#) in January 2022 and concluded that the measure would “lower annual state and local revenues, potentially substantially lower, depending on future actions of the Legislature, local governing bodies, voters, and the courts.” The LAO will provide an updated analysis of the CBRT Initiative, including an estimated fiscal impact, before the statewide election in November 2024.

The CBRT initiative would require that any new or increased tax or fee adopted by the Legislature, a Board of Supervisors, or the local voters after January 1, 2022, must comply with the Act’s new rules. This is estimated to imperil over \$2 billion dollars of annual government revenues from dozens of tax measures approved by voters between January 1, 2022, and the effective date of the CBRT initiative, subverting the will of voters and creating significant uncertainty about the legal status of revenue already collected and funds already committed.

Recorded Support and Opposition

Entities and individuals that filed notice of support or opposition to ACA 13 as the measure moved through the legislative process are included in Attachment 5a.

Policy Considerations

While the CSAC [County Platform](#) does not include language that explicitly supports the exact concept proposed in ACA 13, there are several provisions that indirectly support the measure. Additionally, there is a broader argument in our platform that CSAC supports direct democracy and reducing barriers for voters to access the tools of self-governance, such as the statewide ballot. The CSAC Executive Committee chose to support ACA 13 upon its introduction because it puts in place an appropriate safeguard against eroding the will and wishes of future voters.

Specifically, the CSAC platform provisions that indirectly support the core tenets of ACA 13, include:

- The strength and creativity of America's government institutions reflects the ability of a free people to create, control, and use their freedom for the purpose of self-government. (Chapter 1, General Provisions, Preamble)
- Local Authority: Counties should be granted enhanced local revenue-generating authority to respond to unique circumstances in each county to provide needed infrastructure and county services. Any revenue raising actions that require approval by the electorate should require a simple majority vote. (Chapter 9, Financing County Services, Section 1, Financial Independence, Subsection 4)
- Counties support efficient and accessible voting for all. As a democratic republic, the people and their representatives control government and the people’s will is expressed through voting. Election policies and administration should strike a balance between uniformity and flexibility, but should aim to further the nation’s democratic and republican nature by allowing and encouraging voting by a broad range of citizens, so that the government’s decisions express the will of the people as fully as possible. (Chapter 5, Section 4)

These platform sections support the provisions of ACA 13 both broadly and specifically. Efforts to use a simple majority of electors to raise vote requirements disproportionately empower voters to reduce the power of other voters in future elections, undermining the ability of a free people to create, control, and use their freedom for the purpose of self-government.

Directly, ACA 13 would reduce the likelihood of passage of the CBRT initiative, which undermines the local authority platform language cited above that clearly establishes that the family of counties support the concept that revenue raising actions should require approval by a simple majority vote, rather than the two-thirds super majority vote requirement that would be imposed if the CBRT initiative passes.

Finally, ACA 13 supports the county platform’s guiding principle that government’s decisions should express the will of the people as fully as possible. Local advisory questions are often placed on ballots to solicit the direction of how local residents wish to spend their tax dollars. The CBRT initiative prohibits the placement of local advisory decisions on the same ballot as general tax provisions.

Conversely, ACA 13 includes a provision expressly authorizing the placement of local advisory decisions on ballots. The provisions of ACA 13 directly support the platform language regarding the vital importance for citizens to express their will to their local representatives. Additionally, by making it more difficult for passage of the CBRT initiative, ACA 13 would further the same goals.

Staff Contacts

Please contact Eric Lawyer at elawyer@counties.org or Stanicia Boatner at sboatner@counties.org.

Materials and Resources for Further Reading

- Attachment 9: Recorded support and opposition to ACA 13
- Attachment 10: [Full text of ACA 13](#) (As Chaptered on November 2, 2023)
- Attachment 11: ACA 13 (Ward) Fact Sheet (As of August 2023)
- Attachment 12: [ACA 13 \(Ward\) CSAC Support Letter](#)

- Attachment 13: March 3, 2022 Memorandum to CSAC Board of Directors Re: Ballot Initiative: “The Taxpayer Protection and Government Accountability Act”
- Attachment 14: CSAC Summary of CBRT-Sponsored “Taxpayer Protection and Government Accountability Act”
- Author’s Press Release September 2023: [The Protect and Retain the Majority Vote Act Heads to California Voters](#)

Attachment Nine

ACA 13 (Ward) Recorded Support and Opposition



OFFICERS

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Bruce Gibson
San Luis Obispo County

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Jeff Griffiths
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Susan Ellenberg
Santa Clara County

Past President

Chuck Washington
Riverside County



CEO

Graham Knaus

March 8, 2024

To: CSAC Government Finance and Administration (GFA) Policy Committee

From: Eric Lawyer, Legislative Advocate
Jessica Sankus, Senior Legislative Analyst

Re: **ACTION ITEM: Assembly Constitutional Amendment 13 (Ward)**
“Protect and Retain the Majority Vote Act”

Recorded Support and Opposition to ACA 13 (Ward) as of September 2023

Support

- California School Employees Association, AFL-CIO (co-sponsor)
- SEIU California (co-sponsor)
- AAPIs for Civic Empowerment – Education Fund
- ACLU California Action
- American Federation of State, County and Municipal Employees, AFL-CIO
- Alameda County Early Care and Education Planning Council
- Alameda County Mosquito Abatement District
- Alliance for a Better Community
- Alliance for Community Transit
- Alliance of Californians for Community Empowerment Action
- Alliance San Diego
- American Council of Engineering Companies
- Antelope Valle Mosquito and Vector Control District
- Apple Valley Fire Protection District
- Arcade Creek Recreation and Park District
- Arden Park Recreation and Park District
- Artesia Cemetery District
- Asian Pacific Environmental Network
- Association of California Water Agencies
- Atascadero Cemetery District
- Bear Valley Water District
- Berkeley Fire Department
- Bighorn-Desert View Water Agency
- Bonita Sunnyside Fire Protection District
- Brilliant Corners
- Burney Fire Protection District
- California Association of Recreation & Park Districts
- California Black Power Network
- California Calls
- California Common Cause
- California Community Foundation
- California Conference of Carpenters

Support (continued)

California Conference of Machinists
California Conference of the Amalgamated Transit Union
California Environmental Justice Alliance
California Environmental Voters
California Faculty Association
California Federation of Teachers
California Green New Deal Coalition
California Healthy Nail Salon Collaborative
California Housing Partnership
California Labor Federation
California Municipal Utilities Association
California Professional Firefighters
California School Employees Association
California Special Districts Association
California State Association of Counties
California Teachers Association
California Teamsters
CalNonprofits
Catalyst California
Center on Policy Initiatives
Central Coast United for a Sustainable Economy
Central Contra Costa County Sanitary District
City of Alameda
City of Anaheim
City of Avalon
City of Arcata
City of Azusa
City of Belmont
City of Berkeley Fire Department
City of Brentwood
City of Buena Park
City of Burbank
City of Chino Hills
City of Chula Vista
City of Cloverdale
City of Concord
City of Cotati
City of Cypress
City of Elk Grove
City of Fairfield
City of Fortuna
City of Glendale
City of Half Moon Bay
City of Inglewood
City of Irvine

Support (continued)

City of Kerman
City of King
City of Lakewood
City of Long Beach
City of Los Alamitos
City of Los Angeles
City of Manhattan Beach
City of Mission Viejo
City of Mountain View
City of Napa
City of Newark
City of Norco
City of Norwalk
City of Novato
City of Oakland
City of Oceanside
City of Ontario
City of Pacifica
City of Palo Alto
City of Pasadena
City of Petaluma
City of Pismo Beach
City of Placentia
City of Pleasanton
City of Rancho Cucamonga
City of Riverside
City of Roseville
City of Sacramento
City of San Diego
City of San Fernando
City of San Francisco
City of San José
City of San Luis Obispo
City of San Pablo
City of Santa Barbara
City of Santa Rosa
City of Shasta Lake
City of Soledad
City of Stanton
City of Sunnyvale
City of Tehachapi
City of Tustin
City of Ukiah
City of Upland
City of Visalia

Support (continued)

City of Walnut Creek
City of West Hollywood
Coalition for Humane Immigrant Rights
Coastside County Water District
Communities for a Better Environment
Communities for a New California
Community Coalition
Congregations Organized for Prophetic Engagement
Contra Costa County
Costa Mesa Sanitary District
Cosumnes Community Services District
Courage California
Desert Recreation District
Dolores Huerta Foundation
Eden Health District
El Toro Water District
End Poverty in California
Evolve California
Fort Bragg Fire Protection Authority
Fresno Mosquito and Vector Control District
Gold Mountain Community Service District
Goleta West Sanitary District
GPSN
GRACE – End Child Poverty in California
Groveland Community Services District
Hanford Fire Department
Health Access California
Helix Water District
Housing California
Human Impact Partners
Humboldt Bay Municipal Water District
IBEW Local 569
IFPTE Local 20
Innercity Struggle
Koreatown Immigrant Workers Alliance
League of California Cities
League of Women Voters of California
Lift up Contra Costa
Livermore Area Recreation and Park District
Los Angeles Alliance for a New Economy
Los Angeles Forward
Lutheran Office of Public Policy – California
Mammoth Community Water District
Mayor Ashleigh Aitken (Anaheim)
Mayor Farrah Khan (Irvine)

Support (continued)

Mayor Karen Bass (Los Angeles)
Mayor London Breed (San Francisco)
Mayor Matt Mahan (San José)
Mayor Patricia Lock Dawson (Riverside)
Mayor Rex Richardson (Long Beach)
Mendocino Fire Protection District
Midpeninsula Regional Open Space District
Million Voters Project
Monte Vista Water District
Monterey Peninsula Regional Park District
Mutual Housing California
National Association of Social Workers - California Chapter
North Central Fire Protection District
North County Fire Protection District
Oakland Rising
Olympic Valley Public Service District
Otay Water District
Parent Voices Oakland
Physicians for Social Responsibility – LA
PowerSwitch Action
Public Advocates
Rancho Adobe Fire Protection District
Rim of the World Recreation and Park District
Rising Communities
Ross Valley Sanitary District
Sacramento Suburban Water District
Safe Return Project
San Diego for Every Child
San Francisco Rising
San Joaquin County Mosquito and Vector Control District
San Ramon Valley Fire Protection District
Santa Clara Valley Water District
Santa Clara Valley Open Space Authority
Sonoma Water
Southern California Association of Non-Profit Housing
Southern Marin Fire Protection District
Summerland Sanitary District
Stege Sanitary District
Strategic Concepts in Organizing and Policy Education
Tahoe City Public Utility District
Three Valleys Municipal Water District
Town of Apple Valley
Town of Corte Madera
Town of Discovery Bay, CSD
TreePeople

Support (continued)

Truckee Sanitary District
UNITE-HERE
United Domestic Workers/AFSCME Local 3930
Utility Workers Union of America
Valley Sanitary District
Vista Irrigation District
Voices in Solidarity Against Oil in Neighborhoods
Working Partnerships USA
YMCA of San Diego County

Opposition

Anaheim Chamber of Commerce
Brea Chamber of Commerce
Apartment Association of Greater Los Angeles
Apartment Association of Orange County
Brea Chamber of Commerce
Building Owners and Managers Association of California
California Association of Realtors
California Building Industry Association
California Business and Industrial Association
California Business Properties Association
California Business Roundtable
California Chamber of Commerce
California Farm Bureau
California Farm Workers and Families
California Forestry Association
California Fuels and Convenience Alliance
California Hispanic Chambers of Commerce
California Hotel and Lodging Association
California Manufacturers and Technology Association
California Rental Housing Association
California Retailers Association
California Taxpayer Protection Committee
California Taxpayers Association
Carlsbad Chamber of Commerce
Central Coast Taxpayers Association
Central Valley Business Federation
Central Valley Taxpayers Association
Chino Valley Chamber of Commerce
Citrus Heights Chamber of Commerce
Contra Costa Taxpayers Association
Dana Point Chamber of Commerce
Danville Area Chamber of Commerce
Fontana Chamber of Commerce
Fremont Chamber of Commerce

Opposition (continued)

Garden Grove Chamber of Commerce
Gateway Chambers Alliance
Greater High Desert Chamber of Commerce
Greater Irvine Chamber of Commerce
Greater San Fernando Valley Chamber of Commerce
Half Moon Bay Coastside Chamber of Commerce
Howard Jarvis Taxpayers Association
Imperial Valley Regional Chamber of Commerce
Inland Empire Latino Coalition – San Bernardino-Riverside Counties
Jesse Miranda Center for Hispanic Leadership
La Cañada Flintridge Chamber of Commerce
Laguna Niguel Chamber of Commerce
Lake Elsinore Valley Chamber of Commerce
Livermore Valley Chamber of Commerce
Lodi Chamber of Commerce
Long Beach Area Chamber of Commerce
Los Angeles Area Chamber of Commerce
Los Angeles Business Federation
Los Angeles County Taxpayers Association
Mission Viejo Chamber of Commerce
NAIOP of California
National Diversity Coalition
National Federation of Independent Business – California
Norwalk Chamber of Commerce
Oceanside Chamber of Commerce
Orange Chamber of Commerce
Orange County Business Council
Orange County Taxpayers Association
Palm Desert Area Chamber of Commerce
Palos Verdes Peninsula Chamber of Commerce
Paso Robles and Templeton Chamber of Commerce
Placer County Taxpayers Association
Redondo Beach Chamber of Commerce
Sacramento Taxpayer Association
San Diego Tax Fighters
Santa Ana Chamber of Commerce
Santa Maria Valley Chamber of Commerce
Silicon Valley Taxpayers Association
Simi Valley Chamber of Commerce
Solano County Taxpayers Association
South Bay Association of Chambers of Commerce
Southern California Leadership Council
Sutter-Yuba Taxpayers Association
The Chamber of Commerce for Greater Brawley
Torrance Area Chamber of Commerce

Opposition (continued)

Tulare Chamber of Commerce
United Chambers of the San Fernando Valley
United Latinos Action
Vacaville Chamber of Commerce
Valley Industry and Commerce Alliance
Ventura County Taxpayers Association
Walnut Creek Chamber of Commerce
Whittier Together
Women Veterans Alliance
Yorba Linda Chamber of Commerce
Yuba-Sutter Chamber of Commerce
16,000+ Individuals

Attachment Ten

ACA 13 (Ward) Full Text

Assembly Constitutional Amendment No. 13

RESOLUTION CHAPTER 176

Assembly Constitutional Amendment No. 13—A resolution to propose to the people of the State of California an amendment to the Constitution of the State, by amending Section 10 of, and adding Section 10.5 to, Article II thereof, and adding Section 7.8 to Article XI thereof, relating to voting.

[Filed with Secretary of State November 2, 2023.]

LEGISLATIVE COUNSEL'S DIGEST

ACA 13, Ward. Voting thresholds.

The California Constitution provides that a proposed constitutional amendment and a statewide initiative measure each take effect only if approved by a majority of the votes cast on the amendment or measure.

This measure would further provide that an initiative measure that includes one or more provisions that would amend the Constitution to increase the voter approval requirement to adopt any state or local measure would be approved by the voters only if the proportion of votes cast in favor of the initiative measure is equal to or greater than the highest voter approval requirement that the initiative measure would impose. The measure would specify that this voter approval requirement would apply to statewide initiative measures that appear on the ballot on or after January 1, 2024.

The California Constitution also permits initiative and referendum powers to be exercised by the voters of each city or county under procedures provided by the Legislature.

This measure would expressly authorize a local governing body to hold an advisory vote concerning any issue of governance for the purpose of allowing voters within the jurisdiction to voice their opinions on the issue. The measure would specify that an advisory question is approved only if a majority of the votes cast on the question are in favor.

This measure would further declare that its provisions are severable and that if any provision is held invalid, the other provisions of the act remain valid, as specified.

WHEREAS, In an era of special interests and others attempting to manipulate the electoral process, it is important to preserve the fundamental right of California citizens to approve statewide initiative statutes and referenda by a majority vote; and

WHEREAS, Initiative measures proposing to amend the Constitution to increase the vote requirement above a majority vote to pass other state and local measures violate the principle of majority rule; and

WHEREAS, Citizens have a substantial interest in voicing their opinions on issues of local governance and must be allowed to approve local advisory measures by majority vote; and

WHEREAS, The provisions of this measure are not intended to reverse or invalidate provisions of the Constitution in effect before January 1, 2024, including the provisions of Proposition 13 of 1978; and

WHEREAS, The purpose of this measure is to do all of the following:

(a) Retain the majority vote requirement to pass statewide initiative statutes and referenda;

(b) Provide that any proposed initiative measure that would amend the Constitution to increase the voter approval requirement to pass other state or local measures is effective only if the initiative is approved by the highest vote requirement it imposes on other measures;

(c) Constitutionally authorize local governments to submit questions to voters asking for their opinion on issues of governance; now, therefore, be it

Resolved, That this measure shall be known, and may be cited, as the Protect and Retain the Majority Vote Act; and be it further

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 10 of Article II thereof is amended to read:

Sec. 10. (a) An initiative statute or referendum approved by the electors pursuant to Section 10.5 takes effect on the fifth day after the Secretary of State files the statement of the vote for the election at which the measure is voted on, but the measure may provide that it becomes operative after its effective date. If a referendum petition is filed against a part of a statute, the remainder of the statute shall not be delayed from going into effect.

(b) If provisions of two or more measures approved at the same election conflict, the provisions of the measure receiving the highest number of affirmative votes shall prevail.

(c) The Legislature may amend or repeal a referendum statute. The Legislature may amend or repeal an initiative statute by another statute that becomes effective only when approved by the electors unless the initiative statute permits amendment or repeal without the electors' approval.

(d) Before circulation of an initiative or referendum petition for signatures, a copy shall be submitted to the Attorney General who shall prepare a title and summary of the measure as provided by law.

(e) The Legislature shall provide for the manner in which a petition shall be circulated, presented, and certified, and the manner in which a measure shall be submitted to the electors.

Second—That Section 10.5 is added to Article II thereof, to read:

Sec. 10.5. (a) Except as provided in subdivision (b), a statewide initiative statute or referendum is approved if a majority of the votes cast on the measure are in favor.

(b) Notwithstanding Section 4 of Article XVIII or any other provision of the Constitution, an initiative measure that includes one or more provisions that amend the Constitution to increase the voter approval requirement to adopt any state or local measure is approved by the voters only if the proportion of votes cast in favor of the initiative measure is equal to or greater than the highest voter approval requirement that the initiative measure would impose for the adoption of any state or local measure.

(c) This section applies to all statewide initiative measures submitted to the electors on or after January 1, 2024, including measures that appear on the ballot at the same election at which the measure adding this section is approved by the electors.

Third—That Section 7.8 is added to Article XI thereof, to read:

Sec. 7.8. At any election, pursuant to procedures that the Legislature shall provide, a local governing body may hold an advisory vote concerning any issue of governance for the purpose of allowing voters within the jurisdiction to voice their opinions on the issue. An advisory question is approved only if a majority of the votes cast on the question are in favor. The results of the advisory vote shall in no manner be controlling on the sponsoring local governing body.

Fourth—The provisions of this measure are severable. If any portion, section, subdivision, paragraph, clause, sentence, phrase, word, or application of this measure is for any reason held to be invalid by a decision of any court of competent jurisdiction, that decision shall not affect the validity of the remaining portions of this measure. The people of the State of California hereby declare that they would have adopted this measure and each and every portion, section, subdivision, paragraph, clause, sentence, phrase, word, and application not declared invalid or unconstitutional without regard to whether any portion of this measure or application thereof would be subsequently declared invalid.

Attachment Eleven

ACA 13 (Ward) Author's Office Fact Sheet



CHRISTOPHER M. WARD

ASSEMBLYMEMBER FOR THE 78TH DISTRICT

PHONE: (916) 319-2078 WEBSITE: <https://a78.asmdc.org/> EMAIL: Assemblymember.Ward@assembly.ca.gov

Fact Sheet: ACA 13

Protect and Retain the Majority Vote Act

PROPOSED BILL

The Protect and Retain the Majority Vote Act, Assembly Constitutional Amendment (ACA) 13, would retain the majority vote requirement for passage of state and local initiatives. ACA 13 will require proposed initiatives that seek to increase vote thresholds on future ballot measures to pass with that same proportional higher vote threshold.

ACA 13 would also preserve the right of cities and counties to place advisory questions on the ballot to ask voters their opinion on issues.

BACKGROUND

Under current law, a ballot measure approved by a simple majority of voters can selectively change the law so that a future measure would require a supermajority to pass.

If passed by voters, ACA 13 would retain the majority vote while also requiring any statewide initiative measure seeking to increase the vote threshold on future state or local ballot measures to also be approved by that same proportional higher vote threshold.

For example, a measure that would impose a two-thirds vote threshold on future measures should also pass with a two-thirds vote.

Cities and counties also often place non-binding advisory measures on the ballot to allow voters to weigh in on various issues. This is a critical tool that allows voters to advise local government. However, the ability for local governments to ask voters to weigh in on advisory questions is now under threat.

SOLUTION

ACA 13 will retain the will of the majority of voters to make their voices heard on constitutional amendments proposed by initiative and protect voters' ability to advise their elected officials via local advisory questions.

FOR MORE INFORMATION

Contact: Eric Warmoth
Phone: (916) 319-2078
Email: Eric.Warmoth@asm.ca.gov

Bill Version: Amended August 17, 2023

Attachment Twelve

ACA 13 (Ward) CSAC Support Letter



**California Special
Districts Association**
Districts Stronger Together

September 11, 2023

The Honorable Anthony Portantino
Chair, Senate Appropriations Committee
State Capitol, Room 412
Sacramento, CA 95814

RE: ACA 13 (Ward) Voting thresholds.
Notice of SUPPORT (09/01/2023)

Dear Chair Portantino,

On behalf of the League of California Cities (Cal Cities), the California State Association of Counties (CSAC), and the California Special Districts Association (CSDA), we write in support of **ACA 13**, which would require any constitutional amendment proposed by initiative, that increases a voter approval threshold for future measures, be approved by the same proportion of votes cast as the measure would require. The measure would also preserve the right of cities, counties, and special districts to place advisory questions of the ballot to ask voters their opinion on issues.

Under current law, a simple majority of voters (50% plus 1 vote) may vote to require a super majority (for example, 66 and 2/3%) voter approval for future measures. This framework has given disproportionate power to a small number of voters, with a little more than 1/3 of the voters being able to prevent the enactment of laws that an overwhelming majority of voters agree upon.

In fact, at the local level this has made it unnecessarily difficult to pass revenue measures dedicated to critical services such as homelessness and housing, local hospitals, fire, public safety, and roads. For example, from 2001-2018, city, county, and special district revenue measures with a 2/3 vote requirement have enjoyed only a 48% passage rate, compared to a 70% passage rate of all local revenue measures over the same period of time. The status quo has prevented cities, counties, and special districts from providing desperately needed services.

ACA 13 addresses this issue by simply requiring any initiative that increases a voter approval threshold to pass by that same voter threshold. ACA 13 is a fair proposal that protects the principles of democracy and majority rule.

For these reasons, we are pleased to support ACA 13. If you have any questions, do not hesitate to contact Ben Triffo at btriffo@calcities.org, Eric Lawyer at elawyer@counties.org, or Marcus Detwiler at marcusd@csda.net.



**California Special
Districts Association**
Districts Stronger Together

Sincerely,

A handwritten signature in blue ink, appearing to read "Ben Triffo".

Ben Triffo
Legislative Affairs, Lobbyist
League of California Cities

A handwritten signature in blue ink, appearing to read "Marcus Detwiler".

Marcus Detwiler
Legislative Representative
California Special Districts Association

A handwritten signature in blue ink, appearing to read "Eric Lawyer".

Eric Lawyer
Legislative Advocate
California State Association of Counties

cc: The Honorable Chris Ward, Member of the California Assembly
Members of the Senate Appropriations Committee
Mark McKenzie, Staff Director, Senate Appropriations Committee
Cory Botts, Senate Republican Caucus

Attachment Thirteen

CSAC Memo to the Board of Directors Re: CBRT Ballot Measure March 2022



OFFICERS

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James Gore
Sonoma County



EXECUTIVE DIRECTOR

Graham Knaus

March 3, 2022

To: CSAC Board of Directors

From: Supervisor Amy Shuklian, Chair, CSAC GFA Policy Committee
Geoff Neill, CSAC Legislative Representative

Re: Potential 2022 Ballot Initiative: “The Taxpayer Protection and Government Accountability Act” — ACTION ITEM

Recommendation

The CSAC Executive Committee recommends an oppose position on “The Taxpayer Protection and Government Accountability Act.” Previously, the Government Finance and Administration Policy Committee also recommended CSAC oppose the measure.

According to CSAC policy, the first motion the CSAC Board of Directors considers must be the recommended position of oppose. Ultimately, the Board may take a position of oppose, support, or neutral, or it may choose not to take a position.

Summary

The Taxpayer Protection and Government Accountability Act would amend the California Constitution to restrict the ability of the state, counties, other local agencies, and the electorate to approve or collect taxes, fees, and other revenues.

It would require voter approval of all state taxes, would further restrict local fee authority by limiting it to the “minimum amount necessary” to provide government services, and would require voter approval for local measures such as franchise fees. Its provisions would make it easier to challenge local revenue measures by increasing the burden of proof on local agencies while disallowing an agency’s characterization of a measure from being considered in court.

The measure would prohibit county charter amendments that provide for any revenue whatsoever from being submitted to the electorate. It would also disallow local agencies from placing advisory measures on the same ballot as any general revenue measure and would raise the threshold for voter approval of local revenue measures proposed by initiative to two-thirds, although the proposed initiative itself would only require majority approval to be adopted.

The proposed constitutional initiative is sponsored by the California Business Roundtable, an association comprised of executives for the largest corporations in California. The initiative discussed in this memo is designated by the Attorney General as “21-0042A1.” A previous version of the initiative that included even more onerous restrictions has since been withdrawn.

The California Attorney General has titled the measure: “LIMITS ABILITY OF VOTERS AND STATE AND LOCAL GOVERNMENTS TO RAISE REVENUES FOR GOVERNMENT SERVICES. INITIATIVE CONSTITUTIONAL AMENDMENT.”

The official summary is as follows:

“For new or increased state taxes currently enacted by two-thirds vote of Legislature, also requires statewide election and majority voter approval. Limits voters’ ability to pass voter-proposed local special taxes by raising vote requirement to two-thirds. Eliminates voters’ ability to advise how to spend revenues from proposed general tax on same ballot as the proposed tax. Expands definition of “taxes” to include certain regulatory fees, broadening application of tax approval requirements. Requires Legislature or local governing body set certain other fees. Summary of estimate by Legislative Analyst and Director of Finance of fiscal impact on state and local governments: **Lower annual state and local revenues, potentially substantially lower, depending on future actions of the Legislature, local governing bodies, voters, and the courts.**”

Background

Under current law, local revenue authority is limited by both statute and a number of voter-approved constitutional provisions, including those added by Proposition 13 (1978), Proposition 218 (1996), and Proposition 26 (2010). Due to these restrictions, counties have over time become more dependent on state and federal funding. These restrictions, combined with other factors, cause the taxes counties rely on for general revenues not to keep pace with population and economic growth. In most counties, tax revenues are still lower per capita and are a smaller share of the economy than they were before the Great Recession, in real dollars.

Changes under Ballot Initiative

The purpose of the ballot measure is to make it more difficult for counties, cities, schools, special districts, and the state to raise revenue by any means. It places new and increased restrictions on every manner of revenue measure and narrows exceptions to its most onerous requirements. Its provisions are so broad that while the proponents cite specific examples they are targeting for change, the measure would no doubt have many unintended consequences.

The effect will be to increase county costs, reduce tax and fee revenue for counties, subject *de rigueur* charges such as franchise fees to voter approval requirements, and open more government actions to legal challenges while simultaneously making those challenges more difficult to defend against. Further, as is the case with many ballot measures, it would write into the California Constitution contradictory and confusing language that cannot be changed or clarified without another future ballot measure that receives voter approval.

The fundamental provision of the proposed initiative would be to designate every levy, charge, or exaction of any kind imposed by the state or a local agency as either a tax or an “exempt charge.” Every revenue measure not defined as an exempt charge would be subject to voter approval requirements, some of which the initiative newly imposes or increases.

The list of exempt charges is based on the provisions of Proposition 26 (2010), with some changes. The list includes charges for the actual cost of a government service (such as utilities), charges for the regulatory costs of issuing licenses and performing related inspections and audits, charges for the lease or sale of government property, fines and penalties to punish violations of law, charges for tourism promotion, health care charges to increase Medi-Cal reimbursement rates, and, for local agencies, charges imposed as a condition of property development.

As proposed, every state and local revenue measure not defined as an exempt charge would need to be submitted to the voters for approval. Those measures would be required to include in both the title and summary and the ballot label the type and amount or rate of the tax, the duration of the tax, and the use of the revenue derived from the tax. In the case of local general taxes, the phrase “for general government use” would be required and it would be prohibited to include an advisory measure on the same ballot to determine how the electorate would like to see those revenues used. By specifying that a duration must be provided, the proposed ballot measure appears to require taxes to be time limited.

Local voter initiatives that impose special taxes are currently subject to lower voting thresholds than those initiated by county and city governing boards. This measure would increase those thresholds from a majority vote to two-thirds.

This initiative would retroactively cancel other revenue measures passed by voters or approved between January 1, 2022, and the time this initiative goes into effect, if they do not comply with this measure’s provisions, even if they complied with all laws in effect at the time they passed. The proposed initiative would give those cancelled revenue measures twelve months to re-comply. However, local tax measures can only be put to voters at regular elections where governing board members can also be elected, unless the governing board unanimously calls a special election, and no regular elections would take place in the twelve months after the initiative would take effect.

The initiative reduces counties’ home rule authority by prohibiting certain types of amendments to county charters from even appearing before the voters. Whether they are proposed by the Board of Supervisors or by voters themselves, any charter amendment that provides for the imposition, extension, or increase of a tax, fee, charge, or exaction of any kind whatsoever would be prohibited.

One provision of the measure allows fines and penalties to be imposed by the judicial branch of government or imposed by a local administrative enforcement agency to punish violations of law, without voter approval. However, another section of the measure says that, notwithstanding any other provision of the Constitution, only the governing body of a local government acting by ordinance, or an elector exercising the initiative power, can impose any kind of charge without voter approval.

The measure specifically prohibits any tax or fee regulating or related to vehicle miles traveled imposed as a condition of property development or occupancy.

For most local fees, the measure would prohibit them from exceeding the “actual cost” and defines actual cost to “the minimum amount necessary,” opening up counties to litigation and judicial second-guessing about whether the county could have chosen a lower level of service or whether it could have achieved the result at a lower cost by other means.

The proposed measure would increase the burden of proof on local agencies to prove that a revenue measure is not subject to voter approval requirements—and that the amount of the charge is reasonable and does not exceed the “actual cost,” or “minimum amount necessary”—from a preponderance of evidence to clear and convincing evidence. Furthermore, the measure prohibits a court from considering how a local agency describes, or characterizes, a revenue measure in making its determination, whereas the use of the funds would be required to be a factor in that determination.

To give an example of a normal county process that would be impacted by the proposed measure, consider a county’s sale of a parcel of land, which falls directly under one of the categories of exempt

charge, the one defined in proposed subparagraph (3) of paragraph (j) of Article XIII C Section 1, “a reasonable charge for...the purchase...of local government property.” To impose an exempt charge under the terms of the initiative, the governing body must pass an ordinance specifying the amount of the exempt charge, in this case, the amount charged to purchase the property.

If anyone sued the county contesting whether the sale was an exempt charge or should instead have been treated as a tax, under the terms of the proposed initiative the court would be explicitly disallowed from factoring in the county’s description of the charge “as being paid in exchange for a[n]...asset.” Instead, the court would be required to consider as a factor “the use of revenue derived from the...charge.” So while board members might think the county could use the proceeds from the sale of property for general purposes, in order to show by clear and convincing evidence that the charge was not a tax, it would need to prove to the court both that the amount of the charge was reasonable and “that the amount charged does not exceed the actual cost of providing the...product to the payor,” with the “actual cost” defined as “the minimum amount necessary to reimburse the government for the cost of providing the...product to the payor...where the amount charged is not used by the government for any purpose other than reimbursing that cost.” So in selling, renting, or leasing property, a county would be limited to the county’s cost of providing the parcel to the buyer, instead of selling at market rate or to the person offering the highest amount.

At the state level, the measure would require all state taxes to receive voter approval, in addition to the current requirement for two-thirds approval of both houses of the Legislature. Any increase or imposition of any non-tax charge, however minor, would require approval of the Legislature if it results in any taxpayer paying a higher amount. This requirement would apply to everything from bar exam fees to State Fair ticket prices to any charge for a map, shirt, or deck of cards for sale at a state park. And due to the restrictions on the use of revenue from exempt charges, revenue from map, shirt, and playing card sales at state parks could not be used to support the maintenance of the park, but only to reimburse the minimum amount necessary to provide that map, sticker, or deck of cards to the purchaser.

Policy Considerations

Existing CSAC Policy

The California County Platform could not be clearer about counties’ opposition to the issues raised in this measure.

In its first chapter, the Platform lays out its three major planks based on the chief principle of local control, all of which speak against the proposed ballot measure:

- 1) to allow county government the fiscal resources that enable it to meet its obligations;
- 2) to permit county government the flexibility to provide services and facilities in a manner that resolves the day-to-day problems communities face; and
- 3) to grant county government the ability to tailor the levels of local revenues and services to citizens' satisfaction.

Chapter 9 of the Platform is dedicated to the topic of financing county services. It states that counties must have “the authority to collect revenues at a level sufficient to provide the degree of local services the community desires.”

Under the heading of “Financial Independence” it states that “counties should be granted enhanced local revenue-generating authority to respond to unique circumstances in each county to provide

needed infrastructure and county services. Any revenue raising actions that require approval by the electorate should require a simple majority vote.” It continues: “Furthermore, counties should have the ability to adjust all fees, assessments, and charges to cover the full costs of the services they support.”

CSAC’s Policies and Procedures Manual states that in most circumstances, the Association will consider positions only on qualified ballot measures. However, it also allows the CSAC Officers to make an exception for a proposed measure that has a direct impact on county governments, as is the case with this measure.

Staff Contact

Please contact Geoff Neill at gneill@counties.org or Danielle Bradley at dbradley@counties.org.

Resources

- 1) [Full text of Ballot Initiative](#)
- 2) [Title and Summary](#)
- 3) [Fiscal Impact Estimate Report](#)

Attachment Fourteen

CSAC Summary: California Business Roundtable Initiative



**Initiative No. 21-0042A1: “The Taxpayer Protection and Government Accountability Act”
Sponsored by the California Business Roundtable**

Summary

The “[Taxpayer Protection and Government Accountability Act](#)” would severely restrict the ability of local governments to raise revenue by increasing voter thresholds to approve nearly every tax increase to a super majority, require sunset dates for all tax ordinances, restrict local government’s ability to adjust user fees, and prohibit local advisory measures from being placed on the same ballot as tax increases.

Sunset Date

New or increased taxes adopted after January 1, 2022, must include a sunset date.

Fees and charges

- Place the burden on government of proving by “clear and convincing evidence” that a fee or charge is not a tax and that it is reasonable. Local governments restricted to charging fees beyond “actual cost” of service, defined as the minimum amount necessary to reimburse the government for the cost of providing the service, rather than the existing standard for “reasonable cost.”
- Establish that no fee or charge or exaction regulating vehicle miles traveled can be imposed as a condition of property development or occupancy.

Voters

- Prohibit local advisory questions from appearing on the same ballot as a general tax measure. Instead, the title and summary of a ballot measure must include the use of the revenue derived from the tax—effectively subjecting general tax increases to the 2/3rd vote threshold if local government want to use revenue for a specific purpose.
- Overturn the *Upland* decision, so special taxes proposed by initiative are subject to the same rules as 2/3rd voter approval as special taxes placed on the ballot by a board of supervisors.
- Prohibit voters from amending a County Charter to impose, extend, or increase a tax or fee.

Fines and Penalties

Requires voter approval of fines and penalties for corporations and property owners that violate state and local laws unless a new, undefined adjudicatory process is used to impose the fines and penalties. Examples include parking fines, nuisance abatement, organic waste reduction requirements, and failure to maintain a vacant property.

Effective date

Any new or increased tax or fee adopted by the Legislature, a Board of Supervisors, or the local voters after **January 1, 2022**, must comply with the Act’s new rules. This would imperil upwards of hundreds of millions of dollars in already-approved tax measures.

State taxes

- Any change to state law causing new or higher taxes must not only receive 2/3rd vote in each house, but also receive approval by a majority of statewide voters.
- Prohibits property tax “surcharge” (increase). Prohibits allocation of property tax to the state.

Further Reading

The Legislative Analyst’s Office [published an analysis of the measure](#) in January 2022.