

AMENDED IN ASSEMBLY MARCH 18, 2019

CALIFORNIA LEGISLATURE—2019–20 REGULAR SESSION

Assembly Constitutional Amendment

No. 1

Introduced by Assembly Member Aguiar-Curry

(Principal coauthor: Assembly Member Chiu)

(Principal coauthor: Senator Wiener)

(Coauthors: Assembly Members ~~Chiu~~, Berman, Bloom, Bonta, Burke, Cooper, Eggman, Frazier, Eduardo Garcia, Gipson, Gloria, Gonzalez, Grayson, Holden, Jones-Sawyer, Kalra, Levine, Low, McCarty, Mullin, Nazarian, Quirk, Luz Rivas, Robert Rivas, Blanca Rubio, Santiago, and Ting Mark Stone, Ting, Weber, Wicks, Wood, and Chu)

(Coauthors: Senators Beall, Hill, and Skinner)

December 3, 2018

Assembly Constitutional Amendment No. 1—A resolution to propose to the people of the State of California an amendment to the Constitution of the State, by amending Sections 1 and 4 of Article XIII A thereof, by amending Section 2 of, and by adding Section 2.5 to, Article XIII C thereof, by amending Section 3 of Article XIII D thereof, and by amending Section 18 of Article XVI thereof, relating to local finance.

LEGISLATIVE COUNSEL'S DIGEST

ACA 1, as amended, 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, ~~or city and 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~~ or infrastructure, affordable housing, 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, or city and county, as applicable, and the proposition includes specified accountability requirements. 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, and prohibits these entities from imposing an ad valorem tax on real property or a transactions or sales tax on the sale of real property.

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, as defined, for the purposes of funding the construction, rehabilitation, or replacement of public ~~infrastructure~~ or infrastructure, affordable housing, or permanent supportive housing if the proposition proposing that tax is approved by 55% of its voters voting on the proposition and the proposition includes specified accountability requirements. 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 lower to 55% the voter approval threshold for a require the approval of 55% of the voters of the city, county, or city and 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 or infrastructure, affordable housing 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.*

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

- 1 *Resolved by the Assembly, the Senate concurring,* That the
- 2 Legislature of the State of California at its ~~2017-18~~ 2019-20
- 3 Regular Session commencing on the ~~fifth~~ *third* day of December
- 4 ~~2016,~~ 2018, two-thirds of the membership of each house
- 5 concurring, hereby proposes to the people of the State of California,
- 6 that the Constitution of the State be amended as follows:
- 7 First—That Section 1 of Article XIII A thereof is amended to
- 8 read:
- 9 SECTION 1. (a) The maximum amount of any ad valorem
- 10 tax on real property shall not exceed 1 percent of the full cash
- 11 value of that property. The 1 percent tax shall be collected by the
- 12 counties and apportioned according to law to the districts within
- 13 the counties.
- 14 (b) The limitation provided for in subdivision (a) shall not apply
- 15 to ad valorem taxes or special assessments to pay the interest and
- 16 redemption charges on any of the following:
- 17 (1) Indebtedness approved by the voters before July 1, 1978.

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

4 (3) Bonded indebtedness incurred by a school district,
5 community college district, or county office of education for the
6 construction, reconstruction, rehabilitation, or replacement of
7 school facilities, including the furnishing and equipping of school
8 facilities, or the acquisition or lease of real property for school
9 facilities, approved by 55 percent of the voters of the district or
10 county, as appropriate, voting on the proposition on or after
11 November 8, 2000. This paragraph shall apply only if the
12 proposition approved by the voters and resulting in the bonded
13 indebtedness includes all of the following accountability
14 requirements:

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

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

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

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

33 (4) (A) Bonded indebtedness incurred by a city, county, ~~or city~~
34 ~~and county~~ *city and county, or special district* for the construction,
35 reconstruction, rehabilitation, or replacement of public
36 ~~infrastructure or infrastructure~~, affordable housing, *or permanent*
37 *supportive housing for persons at risk of chronic homelessness,*
38 *including persons with mental illness,* or the acquisition or lease
39 of real property for public ~~infrastructure or infrastructure~~,
40 affordable housing, *or permanent supportive housing for persons*

1 *at risk of chronic homelessness, including persons with mental*
2 *illness, approved by 55 percent of the voters of the city, county,*
3 ~~*or city and county city and county, or special district,*~~ as
4 appropriate, voting on the proposition on or after the effective date
5 of the measure adding this paragraph. This paragraph shall apply
6 only if the proposition approved by the voters and resulting in the
7 bonded indebtedness includes all of the following accountability
8 requirements:

9 (i) A requirement that the proceeds from the sale of the bonds
10 be used only for the purposes specified in this paragraph, and not
11 for any other purpose, including city, county, ~~*or city and county*~~
12 *city and county, or special district* employee salaries and other
13 operating expenses.

14 (ii) A list of the specific projects to be funded, and a certification
15 that the city, county, ~~*or city and county*~~ *city and county, or special*
16 *district* has evaluated alternative funding sources.

17 (iii) A requirement that the city, county, ~~*or city and county*~~ *city*
18 *and county, or special district* conduct an annual, independent
19 performance audit to ensure that the funds have been expended
20 only on the specific projects listed.

21 (iv) A requirement that the city, county, ~~*or city and county*~~ *city*
22 *and county, or special district* conduct an annual, independent
23 financial audit of the proceeds from the sale of the bonds until all
24 of those proceeds have been expended for the public infrastructure
25 or affordable housing projects, as applicable.

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

29 (vi) A requirement that the city, county, ~~*or city and county*~~ *city*
30 *and county, or special district* appoint a citizens' oversight
31 committee to ensure that bond proceeds are expended only for the
32 purposes described in the measure approved by the voters.

33 (B) For purposes of this paragraph, ~~*“affordable paragraph:*~~

34 (i) *“Affordable housing”* shall include housing developments,
35 or portions of housing developments, that provide workforce
36 housing affordable to households earning up to 150 percent of
37 countywide median income, and housing developments, or portions
38 of housing developments, that provide housing affordable to lower,
39 low-, or very low income households, as those terms are defined
40 in state law.

1 (ii) “At risk of chronic homelessness” includes, but is not limited
2 to, persons who are at high risk of long-term or intermittent
3 homelessness, including persons with mental illness exiting
4 institutionalized settings, including, but not limited to, jail and
5 mental health facilities, who were homeless prior to admission,
6 transition age youth experiencing homelessness or with significant
7 barriers to housing stability, and others, as defined in program
8 guidelines.

9 (iii) “Permanent supportive housing” means housing with no
10 limit on length of stay, that is occupied by the target population,
11 and that is linked to onsite or offsite services that assist residents
12 in retaining the housing, improving their health status, and
13 maximizing their ability to live and, when possible, work in the
14 community. “Permanent supportive housing” includes associated
15 facilities, if those facilities are used to provide services to housing
16 residents.

17 ~~(C) For purposes of this paragraph, “public~~

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

20 ~~(i)~~

21 (I) Water or protect water quality.

22 ~~(ii)~~

23 (II) Sanitary sewer.

24 ~~(iii)~~

25 (III) Treatment of wastewater or reduction of pollution from
26 stormwater runoff.

27 ~~(iv)~~

28 (IV) Protection of property from impacts of sea level rise.

29 ~~(v) Parks:~~

30 (V) Parks and recreation facilities.

31 ~~(vi)~~

32 (VI) Open space and recreation facilities: space.

33 ~~(vii)~~

34 (VII) Improvements to transit and streets and highways.

35 ~~(viii)~~

36 (VIII) Flood control.

37 ~~(ix)~~

38 (IX) Broadband-Internet internet access service expansion in
39 underserved areas.

40 ~~(x)~~

1 (X) Local hospital construction.

2 (XI) *Public safety buildings or facilities, equipment related to*
3 *fire suppression, emergency response equipment, or interoperable*
4 *communications equipment for direct and exclusive use by fire,*
5 *emergency response, police or sheriff personnel.*

6 (XII) *Public library facilities.*

7 (v) *“Special district” has the same meaning as provided in*
8 *subdivision (c) of Section 1 of Article XIII C and specifically*
9 *includes a transit district, except that “special district” does not*
10 *include a school district, redevelopment agency, or successor*
11 *agency to a dissolved redevelopment agency.*

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

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

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

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

27 ~~SEC. 4. Except as provided by Section 2.5 of Article XIII C,~~
28 ~~a city, county, or special district, by a two-thirds vote of its voters~~
29 ~~voting on the proposition, may impose a special tax within that~~
30 ~~city, county, or special district, except an ad valorem tax on real~~
31 ~~property or a transactions tax or sales tax on the sale of real~~
32 ~~property within that city, county, or special district.~~

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

35 ~~Section 4.~~

36 ~~SEC. 4. Cities, Counties and special districts, Except as~~
37 ~~provided by Section 2.5 of Article XIII C, a city, county, or special~~
38 ~~district, by a two-thirds vote of the qualified electors of such~~
39 ~~district, its voters voting on the proposition, may impose special~~
40 ~~taxes on such district, a special tax within that city, county, or~~

1 *special district*, except *an ad valorem taxes tax* on real property
2 or a ~~transaction~~ *transactions tax* or sales tax on the sale of real
3 property within ~~such City, County~~ *that city, county*, or special
4 district.

5 Third—That Section 2 of Article XIII C thereof is amended to
6 read:

7 SEC. 2. Notwithstanding any other provision of this
8 Constitution:

9 (a) Any tax imposed by a local government is either a general
10 tax or a special tax. A special district or agency, including a school
11 district, has no authority to levy a general tax.

12 (b) A local government may not impose, extend, or increase
13 any general tax unless and until that tax is submitted to the
14 electorate and approved by a majority vote. A general tax is not
15 deemed to have been increased if it is imposed at a rate not higher
16 than the maximum rate so approved. The election required by this
17 subdivision shall be consolidated with a regularly scheduled general
18 election for members of the governing body of the local
19 government, except in cases of emergency declared by a unanimous
20 vote of the governing body.

21 (c) Any general tax imposed, extended, or increased, without
22 voter approval, by any local government on or after January 1,
23 1995, and before the effective date of this article, may continue to
24 be imposed only if that general tax is approved by a majority vote
25 of the voters voting in an election on the issue of the imposition,
26 which election shall be held no later than November 6, 1996, and
27 in compliance with subdivision (b).

28 (d) Except as provided by Section 2.5, a local government may
29 not impose, extend, or increase any special tax unless and until
30 that tax is submitted to the electorate and approved by a two-thirds
31 vote. A special tax is not deemed to have been increased if it is
32 imposed at a rate not higher than the maximum rate so approved.

33 Fourth—That Section 2.5 is added to Article XIII C thereof, to
34 read:

35 SEC. 2.5. (a) The imposition, extension, or increase of a sales
36 and use tax imposed in accordance with the Bradley-Burns Uniform
37 Local Sales and Use Tax Law (Part 1.5 (commencing with Section
38 7200) of Division 2 of the Revenue and Taxation Code) or a
39 successor law, a transactions and use tax imposed in accordance
40 with the Transactions and Use Tax Law (Part 1.6 (commencing

1 with Section 7251) of Division 2 of the Revenue and Taxation
2 Code) or a successor law, or a parcel tax imposed by a local
3 government for the purpose of funding the construction,
4 reconstruction, rehabilitation, or replacement of public
5 ~~infrastructure or infrastructure~~, affordable housing, *or permanent*
6 *supportive housing for persons at risk of chronic homelessness,*
7 *including persons with mental illness*, or the acquisition or lease
8 of real property for public ~~infrastructure or infrastructure~~,
9 affordable housing, *or permanent supportive housing for persons*
10 *at risk of chronic homelessness, including persons with mental*
11 *illness*, is subject to approval by 55 percent of the voters in the
12 local government voting on the proposition, if both of the following
13 conditions are met:

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

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

18 (A) A requirement that the proceeds of the tax only be used for
19 the purposes specified in the proposition, and not for any other
20 purpose, including general employee salaries and other operating
21 expenses of the local government.

22 (B) A list of the specific projects that are to be funded by the
23 tax, and a certification that the local government has evaluated
24 alternative funding sources.

25 (C) A requirement that the local government conduct an annual,
26 independent performance audit to ensure that the proceeds of the
27 special tax have been expended only on the specific projects listed
28 in the proposition.

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

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

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

39 (b) For purposes of this section, the following terms have the
40 following meanings:

1 (1) “Affordable housing” shall include housing developments,
2 or portions of housing developments, that provide workforce
3 housing affordable to households earning up to 150 percent of
4 countywide median income, and housing developments, or portions
5 of housing developments, that provide housing affordable to lower,
6 low-, or very low income households, as those terms are defined
7 in state law.

8 (2) *“At risk of chronic homelessness” includes, but is not limited*
9 *to, persons who are at high risk of long-term or intermittent*
10 *homelessness, including persons with mental illness exiting*
11 *institutionalized settings, including, but not limited to, jail and*
12 *mental health facilities, who were homeless prior to admission,*
13 *transition age youth experiencing homelessness or with significant*
14 *barriers to housing stability, and others, as defined in program*
15 *guidelines.*

16 ~~(2)~~

17 (3) “Parcel tax” means a special tax imposed upon a parcel of
18 real property at a rate that is determined without regard to that
19 property’s value and that applies uniformly to all taxpayers or all
20 real property within the jurisdiction of the local government.
21 “Parcel tax” does not include a tax imposed on a particular class
22 of property or taxpayers.

23 (4) *“Permanent supportive housing” means housing with no*
24 *limit on length of stay, that is occupied by the target population,*
25 *and that is linked to onsite or offsite services that assist residents*
26 *in retaining the housing, improving their health status, and*
27 *maximizing their ability to live and, when possible, work in the*
28 *community. “Permanent supportive housing” includes associated*
29 *facilities, if those facilities are used to provide services to housing*
30 *residents.*

31 ~~(3)~~

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

34 (A) Water or protect water quality.

35 (B) Sanitary sewer.

36 (C) Treatment of wastewater or reduction of pollution from
37 stormwater runoff.

38 (D) Protection of property from impacts of sea level rise.

39 ~~(E) Parks.~~

40 (E) *Parks and recreation facilities.*

- 1 (F) ~~Open-space and recreation facilities.~~ *space.*
- 2 (G) Improvements to transit and streets and highways.
- 3 (H) Flood control.
- 4 (I) ~~Broadband-Internet~~ *internet* access service expansion in
- 5 underserved areas.
- 6 (J) Local hospital construction.
- 7 (K) *Public safety buildings or facilities, equipment related to*
- 8 *fire suppression, emergency response equipment, or interoperable*
- 9 *communications equipment for direct and exclusive use by fire,*
- 10 *emergency response, policy or sheriff personnel.*
- 11 (L) *Public library facilities.*

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

20 Fifth—That Section 3 of Article XIII D thereof is amended to
 21 read:

22 SEC. 3. (a) An agency shall not assess a tax, assessment, fee,
 23 or charge upon any parcel of property or upon any person as an
 24 incident of property ownership except:

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

27 (2) Any special tax receiving a two-thirds vote pursuant to
 28 Section 4 of Article XIII A or *receiving a 55-percent approval*
 29 *pursuant to* Section 2.5 of Article XIII C.

30 (3) Assessments as provided by this article.

31 (4) Fees or charges for property-related services as provided by
 32 this article.

33 (b) For purposes of this article, fees for the provision of electrical
 34 or gas service are not deemed charges or fees imposed as an
 35 incident of property ownership.

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

38 SEC. 18. (a) A county, city, town, township, board of
 39 education, or school district, shall not incur any indebtedness or
 40 liability in any manner or for any purpose exceeding in any year

1 the income and revenue provided for that year, without the assent
2 of two-thirds of the voters of the public entity voting at an election
3 to be held for that purpose, except that with respect to any such
4 public entity ~~which~~ *that* is authorized to incur indebtedness for
5 public school purposes, any proposition for the incurrence of
6 indebtedness in the form of general obligation bonds for the
7 purpose of repairing, ~~reconstructing~~ *reconstructing*, or replacing
8 public school buildings determined, in the manner prescribed by
9 law, to be structurally unsafe for school use, shall be adopted upon
10 the approval of a majority of the voters of the public entity voting
11 on the proposition at ~~such~~ *the* election; nor unless before or at the
12 time of incurring such indebtedness provision shall be made for
13 the collection of an annual tax sufficient to pay the interest on such
14 indebtedness as it falls due, and to provide for a sinking fund for
15 the payment of the principal thereof, on or before maturity, which
16 shall not exceed forty years from the time of contracting the
17 indebtedness. *A special district, other than a board of education
18 or school district, shall not incur any indebtedness or liability
19 exceeding any applicable statutory limit, as prescribed by the
20 statutes governing the special district as they currently read or
21 may thereafter be amended by the Legislature.*

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

35 (2) *The amendments made to this subdivision by the measure
36 adding this paragraph shall apply to any proposition for the
37 incurrence of indebtedness in the form of general obligation bonds
38 pursuant to this subdivision for the purposes described in
39 paragraph (4) of subdivision (b) of Section 1 of Article XIII A that*

1 *is submitted at the same election as the measure adding this*
2 *paragraph.*

3 (c) When two or more propositions for incurring any
4 indebtedness or liability are submitted at the same election, the
5 votes cast for and against each proposition shall be counted
6 separately, and if two-thirds or a majority or 55 percent of the
7 voters, as the case may be, voting on any one of those propositions,
8 vote in favor thereof, the proposition shall be deemed adopted.

9

10

11 **REVISIONS:**

12 **Heading—Line 5.**

13

O