Prop 65

~~Text of Proposed Laws~~

This initiative measure is submitted to the people in accordance with the provisions of Section 8 of Article II of the California Constitution.

This initiative measure amends an article of, and adds an article to, the California Constitution; therefore, existing provisions proposed to be deleted are printed in ~~strikeout type~~ and new provisions proposed to be added are printed in *italic type* to indicate that they are new.

PROPOSED LAW

SUBJECT TO COURT ORDERED CHANGES

SUBJECT TO COURT ORDERED CHANGES

SCA 2

SA2003RF0067

THE LOCAL TAXPAYERS AND PUBLIC SAFETY PROTECTION ACT

¶ SECTION 1.

SECTION ONE. Short Title.

These amendments to the California Constitution shall be known and may be cited as the LOCAL TAXPAYERS AND PUBLIC SAFETY PROTECTION ACT.

initial caps

¶ SECTION 2.

SECTION TWO. Findings and Purposes

(a) The People of the State of California find that restoring local control over local tax dollars is vital to insure that local tax dollars are used to provide critical local services, including, but not limited to, police, fire, emergency and trauma care, public health, libraries, criminal justice, and road and street maintenance. Reliable funding for these services is essential for the security, well-being, and quality of life of all Californians.

(b) For many years, the Legislature has taken away local tax dollars used by local governments so that the State could control those local tax dollars. In fact, the Legislature has been taking away billions of local tax dollars each year, forcing local governments to either raise local fees or taxes to maintain services, or cut back on critically needed local services.

SUBJECT TO COURT ORDERED CHANGES

(c) The Legislature's diversion of local tax dollars from local governments harms local governments' ability to provide such specific services as police, fire, emergency and trauma care, public health, libraries, criminal justice, and road and street maintenance.

(d) In recognition of the harm caused by diversion of local tax dollars and the importance placed on voter control of major decisions concerning government finance, and consistent with existing provisions of the California Constitution that give the people the right to vote on fiscal changes, the People of the State of California want the right to vote upon actions by the State government that take local tax dollars from local governments.

(e) The Local Taxpayers and Public Safety Protection Act is designed to insure that the People of the State of California shall have the right to approve or reject the actions of state government to take away local revenues that fund vitally needed local services.

(f) The Local Taxpayers and Public Safety Protection Act strengthens the requirement that if the State mandates local governments to implement new or expanded programs, then the State shall reimburse local governments for the cost of those programs.

(g) The Local Taxpayers and Public Safety Protection Act does not amend or modify the School Funding Initiative, Proposition 98 (Article XVI, section 8 of the California Constitution).

SUBJECT TO COURT
ORDERED CHANGES

(h) Therefore, the People declare that the purposes of this Act are to:

(1) require voter approval before the Legislature removes local tax dollars from the control of Local Government, as described in this measure;
(2) insure that local tax dollars are dedicated to local governments to fund local public services;
(3) insure that the Legislature reimburses local governments when the State mandates local governments to assume more financial responsibility for new or existing programs; and
(4) prohibit the Legislature from deferring or delaying annual reimbursement to local governments for state-mandated programs.

SECTION 3.

SECTION THREE. Article XIIIE is hereby added to the California Constitution to read: as follows:

ARTICLE XIIIE Local Taxpayers and Public Safety Protection Act — caps | centered

SUBJECT TO COURT ORDERED CHANGES

Section 1. State-wide Voter Approval Required.

(a) Approval by a majority vote of the electorate, as provided for in this section, shall be required before any act of the Legislature takes effect that removes the following funding sources, or portions thereof, from the control of any Local Government as follows:

(1) Reduces, or suspends or delays the receipt of, any Local Government's proportionate share of the Local Property Tax when the Legislature exercises its power to apportion the Local Property Tax; or requires any Local Government to remit Local Property Taxes to the State, a state-created fund, or, without the consent of the affected Local Governments, to another Local Government;
(2) Reduces, or delays or suspends the receipt of, the Local Government Base Year Fund to any Local Government, without appropriating funds to offset the reduction, delay or suspension in an equal amount;
(3) Restricts the authority to impose, or changes the method of distributing, the Local Sales Tax;
(4) Reduces, or suspends or delays the receipt of, the 2003 Local Government Payment Deferral; or
(5) Fails to reinstate the suspended Bradley-Burns Uniform Sales Tax Rate in accordance with Section 97.68 of the Revenue and Taxation Code added by Chapter 162 of 2003 Statutes; or reduces any Local Government's allocation of the Property Tax required by Section 97.68 while the Sales Tax Rate is suspended.

Local

and Use

the Source of

, as

of the Revenue and Taxation Code

SUBJECT TO COURT ORDERED CHANGES

(b) Prior to its submission to the electorate, an act subject to voter approval under this section must be approved by the same vote of the Legislature as is required to enact a budget bill and shall not take effect until approved by a majority of those voting on the measure at the next statewide election in accordance with subdivision (c).

(c) When an election is required by this section, the Secretary of State shall present the following question to the electorate: "Shall that action taken by the Legislature in [Chapter___ of the Statutes of ___], which affects local revenues, be approved?

SEC.

Section 2. Definitions

(a) "Local Government" means any city, county, city and county, or special district.

(b) "Local Government Base Year Fund" means the amount of revenue appropriated in the 2002-2003 fiscal year in accordance with Chapters 1 through 5, commencing with section 10701 of Part 5 of Division 2 of the Revenue and Taxation Code, adjusted annually based upon the change in assessed valuation of vehicles that are subject to those provisions of law. In the event that the fees imposed by those provisions of law are repealed, then the Fund shall be adjusted annually on July 1 by an amount not less than the percentage change in per capita personal income and the change in population, as calculated pursuant to Article XIIIB.

AN: Part 5 (commencing with Section 10701) ?

(c) "2003 Local Government Payment Deferral" means the amount of revenues required to be transferred to Local Government from the General Fund specified in subparagraph (D) of paragraph (3) of subdivision (a) of section 10754 of the Revenue and Taxation Code in effect on August 11, 2003.

(d) "Local Property Tax" means any Local Government's January 1, 2003 proportionate share of ad valorem taxes on real property and tangible personal property apportioned pursuant to the Legislature's exercise of its power to apportion property taxes as specified in Article XIIIA, section 1. "Local Property Tax" also means any Local Government's allocation of the ad valorem tax on real property and tangible personal property pursuant to Article XVI, section 16.

Section 1 of

(e) "Local Sales Tax" means any sales and use tax imposed by any city, county, or city and county pursuant to the terms of the Bradley-Burns Uniform Sales and Use Tax (Chapter 1 of Part 1.5 of Division 2 of the Revenue and Taxation Code) in accordance with the law in effect on January 1, 2003.

(commencing with Section 7200)

AN: Local ?

(f) "Special District" means an agency of the State, formed pursuant to general law or special act, for the local performance of governmental or proprietary functions with limited geographic boundaries, including redevelopment agencies, but not including school districts, community college districts, or county offices of education.

SUBJECT TO COURT ORDERED CHANGES

SUBJECT TO COURT ORDERED CHANGES

(g) "State" means the State of California.

Sec.

Section 3. Interim Measures

article

(a) The operation and effect of any statute, or portion thereof, enacted between November 1, 2003, and the effective date of this Act, that would have required voter approval pursuant to Section 1 if enacted on or after the effective date of this Act (the "Interim Statute"), shall be suspended on that date and shall have no further force and effect until the date the Interim Statute is approved by the voters at the first statewide election following the effective date of this Act in the manner specified in Section 1. If the Interim Statute is not approved by the voters, it shall have no further force and effect.

article

(b) If the Interim Statute is approved by the voters, it shall nonetheless have no further force and effect during the period of suspension; provided, however, that the statute shall have force and effect during the period of suspension if the Interim Statute or a separate act of the Legislature appropriates funds to affected local governments in an amount which is not less than the revenues affected by the Interim Statute.

article

(c) A statute or other measure that is enacted by the Legislature and approved by the voters between November 1, 2003, and the effective date of this Act is not an Interim Statute within the meaning of this section.

SECTION 4.

Section 6 of

SECTION FOUR. Article XIIIB Section Six (6) is hereby amended as follows:

of the California Constitution is amended to read

ital

SEC. 6. (*a*) Whenever the Legislature or any state agency mandates a new program or higher level of service on any local government, the State shall annually provide a subvention of funds to reimburse such local government for the costs of such program or increased level of service, except that the Legislature may, but need not, provide such subvention of funds for the following mandates:

~~(a)~~ *(1)* Legislative mandates requested by the local agency affected;
~~(b)~~ *(2)* Legislation defining a new crime or changing an existing definition of a crime; or
~~(c)~~ *(3)* Legislative mandates enacted prior to January 1, 1975, or executive orders or regulations initially implementing legislation enacted prior to January 1, 1975.

yes

(b) The annual subvention of funds required by this section shall be transmitted to the local government within 180 days of the effective date of the statute or regulation or order by a State officer or agency that mandates a new program or higher level of service, or within 180 days of a final adjudication that a subvention of funds is required pursuant to this section. For purposes of this section, the Legislature or any State agency or officer mandates a new program or higher level of service when it creates a new program, requires services not previously required to be provided, increases the frequency or duration of required services, increases the number of persons eligible for services, or transfers to local government complete or partial financial responsibility for a program for which the State previously had complete or partial financial responsibility.

SUBJECT TO COURT ORDERED CHANGES

(c) If during the fiscal year in which a claim for reimbursement is filed for a subvention of funds, the Legislature does not appropriate a subvention of funds that provides full reimbursement as required by subdivision (a), or does not appropriate a subvention of funds that provides full reimbursement as part of the state budget act in the fiscal year immediately following the filing of that claim for reimbursement, then a local government may elect one of the following options:

(1) Continue to perform the mandate. The local government shall receive reimbursement for its costs to perform the mandate through a subsequent appropriation and subvention of funds.

(2) Suspend performance of the mandate during all or a portion of the fiscal year in which the election permitted by this subdivision is made. The local government may continue to suspend performance of the mandate during all or a portion of subsequent fiscal years until the fiscal year in which the Legislature appropriates the subvention of funds to provide full reimbursement as required by subdivision (a). A local government shall receive reimbursement for its costs for that portion of the fiscal year during which it performed the mandate through a subsequent appropriation and subvention of funds.

The terms of this subdivision do not apply to, and a local government may not make the election provided for in this subdivision for a mandate that either requires a local government to provide or modify any form of protection, right, benefit or employment status for any local government employee or retiree, or provides or modifies any procedural or substantive right for any local government employee or employee organization, arising from, affecting, or directly relating to future, current, or past local government employment.

(d) For purposes of this section, "mandate" means a statute, or action or order of any state agency, which has been determined by the Legislature, any court, or the Commission on State Mandates or its designated successor, to require reimbursement pursuant to this section.

SECTION FIVE. Construction.

(a) This measure shall be liberally construed to effectuate its purposes, which include providing adequate funds to Local Government for local services including, but not limited to, such services as police, fire, emergency and trauma care, public health, libraries, criminal justice, and road and street maintenance.

(b) This measure shall not be construed either to alter the apportionment of the ad valorem tax on real property pursuant to Section 1 of Article XIII A by any statute in effect prior to January 1, 2003 or to prevent the Legislature from altering that apportionment in compliance with the terms of this measure.

SUBJECT TO COURT ORDERED CHANGES

of the California Constitution as

(c) Except as provided in Section 3 of Article XIIIE added by Section Three of this Act, the provisions of Section 1 of Article XIIIE added by Section Three of this Act apply to all statutes adopted on or after the effective date of this Act.

SECTION 6.

SECTION SIX If any part of this measure or its application to any person or circumstance is held invalid by a court of competent jurisdiction, the invalidity shall not affect other provisions or applications that reasonably can be given effect without the invalid provision or application.

SUBJECT TO COURT ORDERED CHANGES