

AMENDED IN ASSEMBLY JUNE 20, 2024

AMENDED IN ASSEMBLY JUNE 13, 2024

CALIFORNIA LEGISLATURE—2023–24 REGULAR SESSION

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**Assembly Constitutional Amendment**

**No. 10**

**Introduced by Assembly ~~Member Aguiar-Curry~~ Members  
*Aguiar-Curry and Wicks***

***(Coauthors: Assembly Members Bennett, Berman, Boerner, Haney,  
Holden, Grayson, Pellerin, Santiago, and Ward)***

March 6, 2023

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Assembly Constitutional Amendment No. 10—A resolution directing the Secretary of State to make amendments in Assembly Constitutional Amendment No. 1 (Resolution Chapter 173 of the Statutes of 2023) relating to ~~housing~~: *local government finance*.

LEGISLATIVE COUNSEL'S DIGEST

ACA 10, as amended, Aguiar-Curry. Local government financing: affordable housing and public infrastructure: voter approval.

Assembly Constitutional Amendment No. 1 of the 2023–24 Regular Session (ACA 1) would, if adopted by the people, amend Section 4 of Article XIII A, Section 2 of Article XIII C, and Section 3 of Article XIID of, and would add Section 2.5 of Article XIIC to, the California Constitution, relative to local finance. Under these provisions, ACA 1 would condition the imposition, extension, or increase of a sales and use tax or transactions and use tax imposed in accordance with specified law or a parcel tax by a local government 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, on the proposition proposing that tax being 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. ACA 1 would also make conforming changes.

This measure would remove the above-described provisions of ACA 1 relating to special taxes and make conforming changes in other provisions of ACA 1. The measure would direct the Secretary of State to make those amendments in ACA 1.

ACA 1 would create an additional exception to the 1% ad valorem property tax rate limit for an ad valorem tax or special assessment to pay the interest and redemption charges on bonded indebtedness incurred by a city, county, or special district, as defined, 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, voting on the proposition on or after the effective date of ACA 1 and on the proposition including specified accountability requirements. ACA 1 would provide that this exception applies to an ad valorem tax for these purposes that is submitted at the same election as ACA 1.

This measure would specify that the proposition proposing bonded indebtedness for which an ad valorem tax may be imposed under ACA 1, and any measure imposing an ad valorem tax for these purposes, may be voted on at the same election as ACA 1 or at a later election held after the effective date of ACA 1. The measure would also modify the definition of affordable housing for these purposes to include housing developments, or portions of housing developments, that are affordable to individuals, families, seniors, people with disabilities, veterans, or first-time homebuyers, who are lower income households or middle-income households earning up to 150% of countywide median income, capitalized operating reserves, downpayment assistance programs, first-time homebuyer programs, permanent supportive housing, as defined, and associated facilities, if used to serve residents of affordable housing. The measure would also modify the definition of public infrastructure for these purposes to include, among other things, facilities or infrastructure for the delivery of public services, including education, police, fire protection, parks, recreation, open

space, emergency medical, public health, libraries, flood protection, streets or highways, public transit, railroad, airports, and seaports. The measure would make conforming changes and direct the Secretary of State to make those amendments in ACA 1.

ACA 1 would authorize the Legislature, subject to a  $\frac{2}{3}$  vote, to enact laws establishing additional accountability measures consistent with the purposes and intent of the bonded indebtedness provisions of ACA 1.

This measure would additionally authorize the Legislature, subject to a  $\frac{2}{3}$  vote, to enact laws imposing additional conditions or restrictions on the acquisition or lease of real property for purposes described in the bonded indebtedness provisions of ACA 1. *The measure would also require that any repeal of those conditions or restrictions be subject to a  $\frac{2}{3}$  vote.*

ACA 1 would 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. ACA 1 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 ACA 1.

This 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 ACA 1 or at a later election held after the effective date of ACA 1. The measure would direct the Secretary of State to make those amendments in ACA 1.

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

- 1 *Resolved by the Assembly, the Senate concurring,* That the
- 2 Legislature of the State of California at its 2023–24 Regular
- 3 Session commencing on the fifth day of December 2022, two-thirds
- 4 of the membership of each house concurring, hereby directs the
- 5 Secretary of State to make amendments in Assembly Constitutional
- 6 Amendment No. 1 of the 2023–24 Regular Session (Resolution

1 Chapter 173 of the Statutes of 2023) by removing Section 4 of  
2 Article XIII A of, Section 2 of Article XIII C of, and Section 3 of  
3 Article XIID of, the Constitution, as proposed to be amended by  
4 that measure, and by removing Section 2.5 of Article XIIC of the  
5 Constitution, as proposed to be added by that measure; and be it  
6 further

7 *Resolved*, That the Legislature hereby directs the Secretary of  
8 State to make amendments in Assembly Constitutional Amendment  
9 No. 1 of the 2023–24 Regular Session (Resolution Chapter 173 of  
10 the Statutes of 2023) by removing Section 1 of Article XIII A, and  
11 Section 18 of Article XVI, of the Constitution, as proposed to be  
12 amended by that measure, and replacing those sections with the  
13 following Section 1 and Section 18, respectively:

14 That Section 1 of Article XIII A thereof is amended to read:

15 SECTION 1. (a) The maximum amount of any ad valorem  
16 tax on real property shall not exceed 1 percent of the full cash  
17 value of that property. The 1 percent tax shall be collected by the  
18 counties and apportioned according to law to the districts within  
19 the counties.

20 (b) The limitation provided for in subdivision (a) shall not apply  
21 to ad valorem taxes or special assessments to pay the interest and  
22 redemption charges on any of the following:

23 (1) Indebtedness approved by the voters before July 1, 1978.

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

27 (3) Bonded indebtedness incurred by a school district,  
28 community college district, or county office of education for the  
29 construction, reconstruction, rehabilitation, or replacement of  
30 school facilities, including the furnishing and equipping of school  
31 facilities, or the acquisition or lease of real property for school  
32 facilities, approved by 55 percent of the voters of the district or  
33 county, as appropriate, voting on the proposition on or after  
34 November 8, 2000. This paragraph shall apply only if the  
35 proposition approved by the voters and resulting in the bonded  
36 indebtedness includes all of the following accountability  
37 requirements:

38 (A) A requirement that the proceeds from the sale of the bonds  
39 be used only for the purposes specified in this paragraph and not

1 for any other purpose, including teacher and administrator salaries  
2 and other school operating expenses.

3 (B) A list of the specific school facilities projects to be funded  
4 and certification that the school district board, community college  
5 board, or county office of education has evaluated safety, class  
6 size reduction, and information technology needs in developing  
7 that list.

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

12 (D) A requirement that the school district board, community  
13 college board, or county office of education conduct an annual,  
14 independent financial audit of the proceeds from the sale of the  
15 bonds until all of those proceeds have been expended for the school  
16 facilities projects.

17 (4) (A) Bonded indebtedness incurred by a city, county, city  
18 and county, or special district for the construction, reconstruction,  
19 rehabilitation, or replacement of public infrastructure or affordable  
20 housing, or the acquisition or lease of real property for public  
21 infrastructure or affordable housing, approved by 55 percent of  
22 the voters of the city, county, city and county, or special district,  
23 as appropriate, voting on the proposition submitted at the same  
24 election as the measure adding this paragraph or at a later election  
25 held after the effective date of the measure adding this paragraph.  
26 This paragraph shall apply only if the proposition approved by the  
27 voters and resulting in the bonded indebtedness includes all of the  
28 following accountability requirements:

29 (i) A requirement that the proceeds from the sale of the bonds  
30 be used only for the purposes specified in this paragraph, and not  
31 for any other purpose, including city, county, city and county, or  
32 special district employee salaries and other operating expenses.  
33 The administrative cost of the city, county, city and county, or  
34 special district executing the projects and programs of the  
35 proposition shall not exceed 5 percent of the proceeds from the  
36 sale of the bonds.

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

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

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

9 (v) A requirement that the city, county, city and county, or  
10 special district conduct an annual, independent financial audit of  
11 the proceeds from the sale of the bonds until all of those proceeds  
12 have been expended for the public infrastructure or affordable  
13 housing projects, as applicable.

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

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

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

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

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

30 (B) Notwithstanding any other law, if the voters of the city,  
31 county, city and county, or special district have previously  
32 approved a proposition pursuant to this paragraph, the city, county,  
33 city and county, or special district shall not place a proposition on  
34 the ballot pursuant to this paragraph until all funds from the  
35 previous proposition are committed to programs and projects listed  
36 in the proposition's specific local program or ordinance described  
37 in clause (iii) of subparagraph (A).

38 (C) (i) The Legislature may, by two-thirds vote, enact laws  
39 establishing accountability measures in addition to those listed in

1 subparagraph (A), provided such laws are consistent with the  
2 purposes and intent of this paragraph.

3 (ii) The Legislature may, by two-thirds vote, enact laws  
4 imposing additional conditions or restrictions on the acquisition  
5 or lease of real property for the purposes described in this  
6 paragraph. *Any repeal of conditions or restrictions on the*  
7 *acquisition or lease of real property for the purposes described in*  
8 *this paragraph shall require a two-thirds vote.*

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

13 (E) For purposes of this paragraph:

14 (i) (I) “Affordable housing” shall include housing  
15 developments, or portions of housing developments, that are  
16 affordable to individuals, families, seniors, people with disabilities,  
17 veterans, or first-time homebuyers, who are lower income  
18 households or middle-income households earning up to 150 percent  
19 of countywide median income, as those terms are defined in state  
20 law. Affordable housing shall include capitalized operating  
21 reserves, as the term is defined in state law.

22 (II) “Affordable housing” shall also include any of the following:

23 (ia) Downpayment assistance programs.

24 (ib) First-time homebuyer programs.

25 (ic) Permanent supportive housing, including, but not limited  
26 to, housing for persons at risk of chronic homelessness, including,  
27 but not limited to, persons with mental illness.

28 (id) Associated facilities, if used to serve residents of affordable  
29 housing.

30 (ii) “At risk of chronic homelessness” includes, but is not limited  
31 to, persons who are at high risk of long-term or intermittent  
32 homelessness, including persons with mental illness exiting  
33 institutionalized settings, including, but not limited to, jail and  
34 mental health facilities, who were homeless prior to admission,  
35 transition age youth experiencing homelessness or with significant  
36 barriers to housing stability, and others, as defined in program  
37 guidelines.

38 (iii) “Permanent supportive housing” means housing with no  
39 limit on length of stay, that is occupied by the target population,  
40 and that is linked to onsite or offsite services that assist residents

1 in retaining the housing, improving their health status, and  
2 maximizing their ability to live and, when possible, work in the  
3 community.

4 (iv) “Public infrastructure” shall include ~~all~~ any of the following:

5 (I) Facilities or infrastructure for the delivery of public services,  
6 including education, police, fire protection, parks, recreation, open  
7 space, emergency medical, public health, libraries, flood protection,  
8 streets or highways, public transit, railroad, airports, and seaports.

9 (II) Utility, common carrier or other similar projects, including  
10 energy-related, communication-related, water-related, and  
11 wastewater-related facilities or infrastructure.

12 (III) Projects identified by the State or local government for  
13 recovery from natural disasters.

14 (IV) Equipment related to fire suppression, emergency response  
15 equipment, or interoperable communications equipment for direct  
16 and exclusive use by fire, emergency response, police, or sheriff  
17 personnel.

18 (V) Projects that provide protection of property from sea level  
19 rise.

20 (VI) Projects that provide public broadband internet access  
21 service expansion in underserved areas.

22 (VII) Private uses incidental to, or necessary for, the public  
23 infrastructure.

24 (VIII) *Grants to homeowners for the purposes of structure*  
25 *hardening of homes and structures, as defined in state law.*

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

32 (F) This paragraph shall apply to any city, county, city and  
33 county, or special district measure imposing an ad valorem tax to  
34 pay the interest and redemption charges on bonded indebtedness  
35 for those purposes described in this paragraph that is submitted at  
36 the same election as the measure adding this paragraph or at a later  
37 election held after the effective date of the measure adding this  
38 paragraph.

39 (c) (1) Notwithstanding any other provisions of law or of this  
40 Constitution, a school district, community college district, or



1 county office of education may levy a 55-percent vote ad valorem  
2 tax pursuant to paragraph (3) of subdivision (b).

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

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

8 SEC. 18. (a) A county, city, town, township, board of  
9 education, or school district, shall not incur any indebtedness or  
10 liability in any manner or for any purpose exceeding in any year  
11 the income and revenue provided for that year, without the assent  
12 of two-thirds of the voters of the public entity voting at an election  
13 to be held for that purpose, except that with respect to any such  
14 public entity that is authorized to incur indebtedness for public  
15 school purposes, any proposition for the incurrence of indebtedness  
16 in the form of general obligation bonds for the purpose of repairing,  
17 reconstructing, or replacing public school buildings determined,  
18 in the manner prescribed by law, to be structurally unsafe for school  
19 use, shall be adopted upon the approval of a majority of the voters  
20 of the public entity voting on the proposition at the election; nor  
21 unless before or at the time of incurring such indebtedness  
22 provision shall be made for the collection of an annual tax  
23 sufficient to pay the interest on such indebtedness as it falls due,  
24 and to provide for a sinking fund for the payment of the principal  
25 thereof, on or before maturity, which shall not exceed 40 years  
26 from the time of contracting the indebtedness. A special district,  
27 other than a board of education or school district, shall not incur  
28 any indebtedness or liability exceeding any applicable statutory  
29 limit, as prescribed by the statutes governing the special district  
30 as they currently read or may thereafter be amended by the  
31 Legislature.

32 (b) (1) Notwithstanding subdivision (a), any proposition for  
33 the incurrence of indebtedness in the form of general obligation  
34 bonds for the purposes described in paragraph (3) or (4) of  
35 subdivision (b) of Section 1 of Article XIII A shall be adopted  
36 upon the approval of 55 percent of the voters of the school district,  
37 community college district, county office of education, city, county,  
38 city and county, or other special district, as appropriate, voting on  
39 the proposition at an election. This subdivision shall apply to a  
40 proposition for the incurrence of indebtedness in the form of

1 general obligation bonds for the purposes specified in this  
2 subdivision only if the proposition meets all of the accountability  
3 requirements of paragraph (3) or (4) of subdivision (b), as  
4 appropriate, of Section 1 of Article XIII A.

5 (2) The amendments made to this subdivision by the measure  
6 adding this paragraph shall apply to any proposition for the  
7 incurrence of indebtedness in the form of general obligation bonds  
8 pursuant to this subdivision for the purposes described in paragraph  
9 (4) of subdivision (b) of Section 1 of Article XIII A that is  
10 submitted at the same election as the measure adding this paragraph  
11 or at a later election held after the effective date of the measure  
12 adding this paragraph.

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