
**SENATE COMMITTEE ON
ELECTIONS AND CONSTITUTIONAL AMENDMENTS**
Senator Steven Glazer, Chair
2023 - 2024 Regular

Bill No: ACA 1 **Hearing Date:** 9/11/23
Author: Aguiar-Curry
Version: 9/5/23
Urgency: **Fiscal:** Yes
Consultant: Scott Matsumoto

Subject: Local government financing: affordable housing and public infrastructure:
voter approval.

DIGEST

This measure, subject to voter approval, would allow a city, county, or special district, with 55% voter approval, to incur bonded indebtedness or impose specified special taxes to fund projects for affordable housing, permanent supportive housing, or public infrastructure, as specified.

ANALYSIS

Existing law:

- 1) Defines a “general tax” as any tax imposed for general governmental purposes.
- 2) Defines a “special tax” as any tax imposed for specific purposes, including a tax imposed for specific purposes, which is placed into a general fund.
- 3) Specifies that all taxes imposed by any local government shall be deemed to be either general taxes or special taxes. Special purpose districts or agencies, including school districts, shall have no power to levy general taxes.
- 4) Prohibits a local government from imposing, extending, or increasing a general tax unless and until that tax is submitted to the electorate and approved by a majority vote.
- 5) Prohibits a local government from imposing, extending, or increasing a special tax unless and until that tax is submitted to the electorate and approved by a two-thirds vote.
- 6) Authorizes a city, county, or special district, by a two-thirds vote of the qualified electors of such district, to impose special taxes on such district, except ad valorem taxes on real property or a transaction or sales tax on the sale of real property within such city, county, or special district.
- 7) Caps the maximum amount of any ad valorem tax on real property at 1% of the property’s full cash value. Provides that this limitation does not apply to ad valorem taxes or special assessments to pay the interest and redemption charges on bonded

indebtedness for 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, or 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, approved by 55% of the voters of the district or county. Provides that any such proposition relating to school facilities must include specified accountability requirements, including an annual, independent performance audit.

- 8) Provides that every constitutional amendment, bond measure, or other legislative measure submitted to the people by the Legislature shall appear on the ballot of the first statewide election occurring at least 131 days after the adoption of the proposal by the Legislature.
- 9) Provides that a proposed amendment or revision to the California Constitution, if approved by a majority of votes cast thereon, 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.

This measure:

- 1) Allows a city, county, city and county, or special district to incur indebtedness in the form of general obligation bonds to fund 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, to be approved by 55% of the voters voting on the proposition on or after the effective date of the measure adding this provision. This provision shall apply only if the proposition approved by the voters and resulting in the bonded indebtedness all of the specified accountability requirements, including:
 - a) A requirement that the proceeds from the sale of the bonds be used only for the purposes specified in 1) above, and not for any other purpose, including city, county, city and county, or special district employee salaries and other operating expenses. Provides that the administrative costs shall not exceed 5% of the proceeds from the sale of the bonds.
 - b) 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.
 - c) 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 b) above.
 - d) 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 bonds until

all of those proceeds have been expended for the public infrastructure or affordable housing projects, as applicable.

- e) A requirement the above audits be submitted to the California State Auditor for review.
 - f) A requirement that the city, county, city and county, or special district post the audits in a manner that is easily accessible to the public.
 - g) 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. Members appointed to an oversight committee shall receive financial educational training.
 - h) A requirement that 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.
 - i) A requirement that an entity owned or controlled by a local official that votes on whether to put a proposition on the ballot will be prohibited from bidding on any work funded by the proposition.
- 2) Specifies that a city, county, city and county, or special district may levy a 55% vote ad valorem tax pursuant to 1), above.
- 3) Specifies that the imposition, extension, or increase of a sales and use tax, a transactions and use tax, or a parcel tax imposed by a local government for the purposes 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 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% of the voters in the local government voting on the proposition, if both of the following conditions are met:
- a) The proposition is approved by a majority of the membership of the governing board of the local government.
 - b) The proposition contains similar accountability requirements as 1) above.
- 4) Limits the number of propositions authorized by the measure a local government can place on the ballot until all funds from a proposition have been committed, as specified.
- 5) Authorizes the Legislature, by two-thirds vote, to enact laws establishing accountability measures in addition to those listed in this measure provided such laws are consistent with this measure.
- 6) Specifies that the Legislature may, by majority vote, enact laws for the downpayment assistance programs, as specified.

- 7) Specifies that 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.
- 8) Allows the voter approval thresholds specified above in 1) and 3), above, to apply to a local measure imposing, extending, or increasing a sales and use tax, a transactions and use tax, a parcel tax, or general obligation bonded indebtedness for the purposes specified above, submitted to voters at the same election as ACA 1.
- 9) Provides that 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.

BACKGROUND

Special Taxes. The California Constitution states that taxes local governments levy are either general taxes, subject to majority voter approval, or special taxes, subject to two-thirds vote (Article XIII C), which local agencies use for specified purposes. Proposition 13 (1978) required a two-thirds vote of each house of the Legislature for state tax increases, and two-thirds vote for local special taxes. Proposition 62 (1986) prohibited local agencies from imposing general taxes without majority approval of local voters. Proposition 218 (1996) extended those vote thresholds to charter cities and limited local agencies' powers to levy new assessments, fees, and taxes.

Bonds. Article XVI, Section 18 of the California Constitution generally prohibits cities, counties, and school districts from incurring any debt or liabilities exceeding any year's revenues without two-thirds voter approval. One of the most common reasons local agencies incur debt is to raise sufficient capital for a project or cost that the local agency does not have sufficient cash on hand to immediately finance, such as a public infrastructure project, and promise to pay off the principal and interest on that debt over time. General obligation bonds, in the local government context, refer to bonds payable from ad valorem property tax revenue. These typically require two-thirds voter approval. However, Proposition 39 (2000) amended the Constitution to decrease the two-thirds approval requirement to 55% percent for school districts, community college districts, or county offices of education, to issue general obligation bonds for the construction or rehabilitation of school facilities.

Affordable Housing and Other Infrastructure Needs. Funding for the development of local infrastructure comes from many sources, including federal, state, and local governments. However, California's infrastructure development needs are vast. For example, according to the 2022 Statewide Housing Plan, to meet California's unmet housing needs, the state needs an additional 2.5 million housing units, including 1.2 million for lower-income households. The state needs an additional 180,000 new units of housing a year to keep up with demand, including about 80,000 units of housing

affordable to lower-income households. Additionally, the state's homelessness crisis is driven, in part, by the lack of affordable rental housing for lower income people. According to the most recent point in time count, 171,521 people were experiencing homelessness in California, representing 30% of the nation's homeless population.

Moreover, according to the Assembly Water, Parks, and Wildlife Committee analysis for SB 867 (Allen), "Led by state agencies and completed in 2018, [California's Fourth Climate Change] Assessment includes over 44 peer-reviewed technical reports that examine specific aspects of climate change in California. Among the Assessment's findings is that California is one of the most 'climate-challenged' regions of North America and must actively plan and implement strategies to prepare for and adapt to extreme events and shifts from previously 'normal' averages. The report stated that climate change impacts are here, including the following impacts: 1) temperatures are warming, heat waves are more frequent, and precipitation has become increasingly variable; 2) glaciers in the Sierra Nevada have lost an average of 70% of their area since the start of the 20th century; and 3) the sea level along the central and southern California coast has risen more than 5.9 inches over the 20th century. The Assessment projects that climate change impacts could result in direct economic costs exceeding \$100 billion annually by 2050. Human mortality due to high temperatures is the single largest projected cost at approximately \$50 billion annually. A 'megaflood' in the Central Valley would not be an annual cost, but climate change will increase the likelihood of such an event and it could cost up to \$750 billion in damages. Similarly, sea level rise could lead to as much as \$18 billion in damages. The increased likelihood and severity of a 100-year storm hitting the coast combined with sea level rise could result in costs of \$30 billion."

In addition to affordable housing, homelessness, and climate change resilience, supporters have identified the need for funding for a number of other types of infrastructure projects, including transportation, broadband, public safety, and parks, among others.

Election Timing. Existing law provides that every constitutional amendment, bond measure, or other legislative measure submitted to the people by the Legislature shall appear on the ballot of the first statewide election occurring at least 131 days after the adoption of the proposal by the Legislature. The next scheduled statewide election is March 5, 2024. In order to move a legislative measure from one election to another, legislation is needed.

As a result, SB 789 (Allen) of 2023 would move ACA 1 to the November 5, 2024 statewide general election. SB 789 also moves SCA 2 (Allen), Resolution Chapter 182, Statutes of 2022 and ACA 5 (Low), Resolution Chapter 125, Statutes of 2023, to the November 5, 2024 statewide general election.

COMMENTS

- 1) According to the author. Under current law, local officials propose a local bond or special tax, and then it is up to the voters in that community to decide whether they support the idea or not. Local governments and local voters know best what their communities need. In some neighborhoods, this means a new library or fire station; in others this means an increase in the affordable housing stock, or connecting their

constituents to municipal broadband service. These investment initiatives often fail to reach the legal requirement of a two-thirds vote, a threshold under which opponents' votes count twice as much as those community members who support infrastructure investments.

ACA 1 will empower local governments to address local priorities without needing to wait for state and federal funding initiatives. Voters would still need to overwhelmingly support a bond or special tax in order for it to be approved with 55 percent of the vote.

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. It also contains historic transparency and accountability measures, including a specific expenditure plan for the projects and programs proposed, annual financial and performance audits which are reviewed by the Bureau of State Audits, monitoring by a citizens' commission with members who've received financial training to assure resources are being spent as proposed, and a cap on the administrative expenses at 5%.

- 2) Argument in Support. In a letter supporting ACA 1, the Urban Counties of California stated, in part, the following:

ACA 1 will level the playing field and create parity with school districts so that cities, counties, and special districts have a viable financing tool to help address important community needs for affordable housing and public infrastructure. Local voters would still need to overwhelmingly support a bond or special tax (with 55%) and ACA 1 provides specific requirements for financial accountability.

Local agencies face numerous challenges in funding important public infrastructure and housing projects for their communities. It is no secret that the state's housing production has not kept pace with growth and need. The status of infrastructure in our state is similarly challenged, with storm water management, transit development, park facilities, streets and roads, and broadband deployment projects waiting to be deployed. To be sure, investments made by the federal and state governments in these projects are helpful and important; however, many of these projects will require local resources to complete necessary funding requirements. Further, local officials must have a greater role in proposing and funding local needs that often do not rise to the top of regional, state, or federal funding lists.

Questions of taxation and public indebtedness are of the greatest importance to the voters of this state. That is why the California Constitution requires that these questions be taken directly to the voters instead of decided solely by their elected representatives. A 55 percent threshold is enough to indicate whether the bulk of a community is willing to incur that indebtedness or pay a tax for such important services.

- 3) Argument in Opposition. A coalition letter led by the California Taxpayers Association opposing ACA 1 was submitted to the committee. The letter provided a number of reasons for the coalition's opposition that included, in part, the following:

- *Increases Housing Costs and the Cost of Living.* Higher sales taxes increase the cost of home construction and everyday necessities used by homeowners and renters, while property taxes increase the burden of homeownership – all of which make housing less affordable for working families, including renters.
- *Increases Costs for Key Sectors of the Economy.* Businesses engaged in manufacturing, research-and-development, teleproduction and post-production, and agriculture face a significant sales and use tax burden in California. [...] Tax increases promoted by ACA 1 would defeat the purpose of the state-level exemption provided by the state and make it more cost-prohibitive to conduct these business activities in California.
- *Authorizes Changes to the Bradley-Burns Sales Tax.* ACA 1 would allow local jurisdictions to approve Bradley-Burns sales tax increases with a 55 percent vote of the electorate, eliminating the uniformity and certainty provided by the Bradley-Burns sales tax. [...] Allowing localities to modify their Bradley-Burns sales tax rates, without a cap on rate increases, paves the way for excessive combined sales tax rates in parts of the state – increasing costs for residents and businesses.
- *Promotes a Flawed and Regressive Tax Structure.* No oversight has been provided to establish a comprehensive structure, and these taxes are both regressive and distortionary, often disregarding a taxpayer’s ability to pay. Parcel taxes, which can reach thousands of dollars annually in some parts of California, are extremely costly for seniors on fixed incomes and households struggling to make ends meet.
- *Erodes Taxpayer Safeguards.* Reducing the vote threshold would diminish the people’s voice on tax increases and would erode property tax safeguards.
- *Harms California Workers.* Tax increases such as those promoted in ACA 1 would be a step in the wrong direction, and would encourage more companies to move workers and investments to other states.

RELATED/PRIOR LEGISLATION

SB 789 (Allen) of 2023 would, among other measures, require the Secretary of State to submit ACA 1 to voters at the November 5, 2024 statewide general election.

ACA 1 (Aguiar-Curry) of 2021, ACA 1 (Aguiar-Curry) of 2019, and ACA 4 (Aguiar-Curry) of 2017 were all generally similar and would have lowered the voter-approval threshold to 55% for a specified jurisdiction to incur bonded indebtedness or impose specified special taxes to fund projects for housing or public infrastructure.

PRIOR ACTION

Assembly Floor:	55 - 12
Assembly Appropriations Committee:	10 - 4

Assembly Local Government Committee: 6 - 1

POSITIONS

Sponsor: California Professional Firefighters
California State Building and Construction Trades Council

Support: 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 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
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 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 Leadership Forum
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 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
Sierra Business Council
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

Oppose: 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
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
Coalition of Sensible Taxpayers
Central Coast Taxpayers Association
Central Valley Taxpayers Association
Coalition of Labor, Agriculture, and Business, Santa Barbara County
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, the 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
Ventura County Taxpayers Association
Western Manufactured Housing Communities Association

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