

conflict, the provisions of the measure receiving the highest number of affirmative votes shall prevail.

This measure:

- 1) Provides that an initiative measure that includes one or more provisions that amend the California Constitution, and that increases the voter approval requirement to adopt any state or local measure, must receive a proportion of votes in favor of the initiative that is equal to or greater than the highest voter approval requirement imposed by the initiative for the adoption of a state or local measure.
- 2) Permits a local governing body, at any election, to hold an advisory vote concerning any issue of governance for the purpose of allowing voters within the jurisdiction to voice their opinions on the issue. Provides that an advisory question is approved only if a majority of the votes cast on the question are in favor. Provides that the results of the advisory vote are not controlling on the local governing body.
- 3) Provides that the provisions of this amendment apply to all statewide initiative measures submitted to the electors on or after January 1, 2024, including measures that appear on the ballot at the same election at which the measure adding this section is approved by the electors.
- 4) Contains intent language stating that the provisions of this measure are not intended to reverse or invalidate provisions of the California Constitution in effect before January 1, 2024, including the provisions of Proposition 13 of 1978.
- 5) Provides that this measure shall be known, and may be cited, as the Protect and Retain the Majority Vote Act.
- 6) Contains a severability clause.
- 7) Makes a conforming change.

BACKGROUND

Amendments to ACA 13. This analysis reflects amendments being presented in this committee. The amendments provide that the provisions of ACA 13 apply to all statewide initiative measures submitted to the electors on or after January 1, 2024, including measures that appear on the ballot at the same election at which the measure adding this section is approved by the electors. Additionally, the amendments contain intent language stating that the provisions of this measure are not intended to reverse or invalidate provisions of the California Constitution in effect before January 1, 2024, including the provisions of Proposition 13 of 1978.

Pathways to the Ballot – Constitutional Amendments. There are two ways to qualify a statewide measure to amend the California Constitution. One way is for the Legislature to adopt an Assembly or a Senate Constitutional Amendment with a two-thirds vote of both legislative houses. This is sometimes referred to as a legislative constitutional amendment.

The other way is to collect signatures, submit those signatures, and have those signatures verified through the initiative process. This is sometimes referred to as an initiative constitutional amendment. The number of signatures must be equal to at least eight percent of the total votes cast for the office of Governor at the last gubernatorial election. Currently, to qualify an initiative constitutional amendment, 874,641 signatures are required.

It should be noted, while it is similar to the process for initiatives, the thresholds to enact statutes are different. For example, the number of signatures required to qualify an initiative that does not amend the California Constitution must be equal to at least five percent of the total votes cast for the office of Governor at the last gubernatorial election. This equates to 546,651 signatures.

This measure affects initiative constitutional amendments that increase the voter approval requirement to adopt any state or local measure.

Supermajority Vote Requirements. Under existing law, any state ballot measure can be approved by a simple majority vote of the electorate, regardless of the changes to state law made by the measure. By contrast, some local ballot measures are subject to higher vote requirements. For example, a local measure that is placed on the ballot by a local governing body that proposes a special tax (a tax for which the proceeds will be used for a specific purpose) requires a two-thirds vote of the electorate.

If this measure qualifies for the ballot and is approved by voters, it would mark the first time that any state ballot measure would require more than a simple majority vote to be approved. Specifically, state ballot measures that (1) are initiative measures (the term “initiative” refers exclusively to a proposed law that qualifies for the ballot through the collection of voters’ signatures on an initiative petition), (2) propose to amend the state constitution, and (3) propose to increase the vote required for voters to approve a state or local ballot measure would be subject to a voter approval threshold that is greater than a simple majority vote.

Prior Effort to Impose Supermajority Vote Requirement on State Ballot Measures.

Notwithstanding the fact that all state ballot measures require a simple majority to pass, at least one prior initiative measure sought to impose a supermajority vote requirement on certain state ballot measures.

Specifically, Proposition 136, which appeared on the ballot at the November 1990 statewide general election, would have required any state special taxes that were proposed by a state initiative measure to be approved by two-thirds of the voters, among other provisions. Proposition 136 failed narrowly, receiving 47.9% of the vote.

Voter Approval Thresholds Only. The provisions of this measure related to the vote requirement for initiative constitutional amendments apply only to initiatives that seek to make it more difficult for voters to take a specified action by approving a ballot measure. It does not affect the vote requirement for initiative constitutional amendments that seek only to make it harder for a governmental body to approve a specified action by increasing the vote by which that body must approve an action.

For example, an initiative constitutional amendment that required a two-thirds vote of the local electorate to approve any ballot measure that sought to rezone parcels would need to be approved by two-thirds of the voters if this measure takes effect. By contrast, an initiative constitutional amendment that required a two-thirds vote of a local governing body to rezone parcels would be subject to a simple majority vote (provided that the initiative did not also include other provisions that affected the vote requirement for actions taken by voters).

Pending Initiative. On February 1, 2023, the SOS certified that initiative #1935—a measure that would amend the California Constitution to change the rules for how the state and local governments can impose taxes, fees, and other charges—is eligible to appear on the ballot at the November 5, 2024, statewide general election. The proponent of that initiative can withdraw it at any time through June 27, 2024. If the proponent does not withdraw the initiative by that deadline, the SOS will certify that the measure is qualified and it will appear on the November 5, 2024, statewide general election ballot.

Among other provisions, initiative #1935 requires that any local special tax be approved by a two-thirds vote of the electorate to take effect. Recent case law suggests that local special taxes that are proposed by a local initiative measure can be approved by a majority vote of the electorate. By contrast, local special taxes that are placed on the ballot by a local governmental body must be approved by a two-thirds vote of the electorate. Additionally, initiative #1935 prohibits an advisory measure from appearing on the same ballot as a local measure that proposes a general tax if the advisory measure would indicate that the revenue from the general tax will, could, or should be used for a specific purpose.

If this measure applied to the voter's consideration of initiative #1935, it appears that initiative #1935 would need to be approved by two-thirds of the voters in order to take effect. However, while this measure likely would affect the vote requirement for initiative #1935, its effects are not limited to that initiative. The provisions of ACA 13 would apply to any initiative constitutional amendment that appears on the ballot in the future and that proposes to increase the vote requirement for a state or local ballot measure.

Oregon Measure 63. The vote requirement provisions of this measure are similar to the provisions of a constitutional amendment approved by Oregon voters in 1998. Specifically, Measure 63 amended the Oregon Constitution to provide “any measure that includes any proposed requirement for more than a majority of votes cast by the electorate to approve any change in law or government action shall become effective only if approved by at least the same percentage of voters specified in the proposed voting requirement.” Measure 63 was approved with 55% of the vote.

Advisory Measures. As detailed above, the California Elections Code already permits cities, counties, school districts, community college districts, county boards of education, and special districts to submit advisory questions to their voters. This measure proposes to add a similar provision to the state constitution.

As detailed above, a pending initiative measure that is eligible to appear on the November 5, 2024, statewide general election ballot would limit the ability of a local government to place an advisory measure on the ballot if the measure is related to the

potential use of revenues derived from a general tax that is appearing on the same ballot. If approved by voters, that constitutional limitation on local advisory measures would prevail over the general provisions of the Elections Code that permit local advisory measures.

If both this measure and the pending initiative measure were to be approved by voters, the California Constitution would include potentially conflicting provisions governing local advisory measures. In such a situation, it is unclear which provision would prevail if a local jurisdiction sought to place an advisory measure on the ballot related to the use of revenues from a general tax appearing on the same ballot.

COMMENTS

- 1) According to the author. The Protect and Retain the Majority Vote Act, ACA 13, would give Californians the right to vote on retaining the majority vote requirement for passage of state and local initiatives. ACA 13 will require proposed initiatives that seek to increase vote thresholds on future ballot measures to pass with that same proportional higher vote threshold. For example, a measure that would impose a two-thirds vote threshold on future measures should also pass with a two-thirds vote.

Cities and counties also often place non-binding advisory measures on the ballot to allow voters to weigh in on various issues. This is a critical tool that allows voters to advise local government, and ACA 13 would protect the right of cities to place advisory questions on the ballot to ask voters their opinion on issues.

With a pattern of abuse of our initiative process to use a lower threshold to set higher thresholds for future voters – and worse, using this tactic to extract legislative action for special interests – the time is right for the Legislature to reflect a protection afforded in the Oregon Constitution since 1998 and adopt ACA 13 to send to the voters for their consideration.

- 2) Does ACA 13 Affect Current Voter Thresholds in Proposition 13? As previously mentioned, the provisions of ACA 13 would apply to any initiative constitutional amendment that appears on the ballot in the future and proposes to increase the vote requirement for a state or local ballot measure. ACA 13 does not affect vote thresholds currently in effect.

This analysis reflects amendments accepted by the author to insert language stating that the provisions of ACA 13 apply to all statewide initiative measures submitted to the electors on or after January 1, 2024, including measures that appear on the ballot at the same election at which the measure adding this section is approved by the electors. The amendments also contain intent language stating that the provisions of this measure are not intended to reverse or invalidate provisions of the California Constitution in effect before January 1, 2024, including the provisions of Proposition 13 of 1978.

- 3) Argument in Support. In a letter co-sponsoring ACA 13, SEIU California stated, in part, the following:

One of the most sacred principles of democracy, the majority vote, is under attack. Anti-Democratic efforts are seeking to establish and enshrine the right of a privileged and powerful minority to veto the will of the people. These anti-democratic measures to increase voter thresholds are intended to take away our freedoms such as abortion access and to prevent progress.

As a result, we must take additional steps to fortify the foundations of our democracy and place ACA 13 on the March 2024 ballot.

ACA 13 is simple. It would retain and protect the majority vote, require any initiative that increases voter approval requirements to also be approved at the higher level, and would ensure local governments can always ask voters for their opinion on issues. ACA 13 protects the democratic principle of “one person, one vote.”

- 4) Argument in Opposition. In a coalition letter opposing ACA 13, the California Business Roundtable stated, in part, the following:

ACA 13 will fundamentally change the initiative process by increasing the voter threshold to pass future limits on taxes and fees only for measures put on the ballot by signature gathering, not those put on by the Legislature. ACA 13 will change the power balance between the Legislature and voters and is yet another attempt to diminish the voice of voters as the right and necessary check-and-balance in our system of government.

[...]

The initiative process is a vital tool for Californians to voice their concerns, propose changes, and stand up for their values. It allows citizens to bypass the usual legislative channels and bring about changes that matter deeply to them. However, ACA 13 risks diminishing these voices, shifting power away from the people and towards the Legislature in a drastic and unprecedented way. Under ACA 13, the power to increase voter thresholds for new and higher taxes would vest solely with the Legislature, taking away a fundamental and often-used tool for voters looking to better control their cost of living and higher taxes. However, the power to reduce voter thresholds would remain with both citizens and the Legislature, creating significant power imbalance and an unlevel playing field.

[...]

The ballot measure process has posed a significant check-and-balance for both the Legislature and the courts. In fact, in many cases, it is the only recourse taxpayers have when the courts overstep their authority and rule against voters' will.

RELATED/PRIOR LEGISLATION

ACA 9 (Gatto) of 2010 would have required that an initiative that would increase the current vote requirement for an action by either the electors or by the Legislature, or would impose an extraordinary vote requirement for the amendment of an initiative

statute by the Legislature without approval by the electors, itself receive the same affirmative vote percentage in order to be approved by the electors. ACA 9 was referred but not heard by the Assembly Committee on Elections and Redistricting.

PRIOR ACTION

Assembly Floor:	57 - 19
Assembly Appropriations Committee:	9 - 4
Assembly Elections Committee:	5 - 2

POSITIONS

Sponsor: California School Employees Association, AFL-CIO
SEIU California

Support: **NOTE – Support reflects a prior version of the bill.**

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

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

City of Mountain View
City of Napa
City of Newark
City of Norco
City of Norwalk
City of Novato
City of Oakland
City of Oceanside
City of Ontario
City of Pacifica
City of Palo Alto
City of Placentia
City of Pleasanton
City of Rancho Cucamonga
City of Riverside
City of Roseville
City of Sacramento
City of San Diego
City of San Fernando
City of San Francisco
City of San José
City of San Luis Obispo
City of San Pablo
City of Santa Rosa
City of Shasta Lake
City of Soledad
City of Stanton
City of Tehachapi
City of Tustin
City of Ukiah
City of Upland
City of Visalia
City of Walnut Creek
City of West Hollywood
Coalition for Humane Immigrant Rights
Coastside County Water District
Communities for a Better Environment
Communities for a New California
Community Coalition
Congregations Organized for Prophetic Engagement
Contra Costa County
Costa Mesa Sanitary District
Cosumnes Community Services District
Courage California
Desert Recreation District
Dolores Huerta Foundation
Eden Health District
El Toro Water District
End Poverty in California
Evolve California

Fort Bragg Fire Protection Authority
Fresno Mosquito and Vector Control District
Gold Mountain Community Service District
Goleta West Sanitary District
GPSN
GRACE – End Child Poverty in California
Groveland Community Services District
Hanford Fire Department
Health Access California
Housing California
Human Impact Partners
Humboldt Bay Municipal Water District
IBEW Local 569
IFPTE Local 20
Innecity Struggle
Koreatown Immigrant Workers Alliance
League of California Cities
League of Women Voters of California
Lift up Contra Costa
Livermore Area Recreation and Park District
Los Angeles Alliance for a New Economy
Los Angeles Forward
Lutheran Office of Public Policy – California
Mammoth Community Water District
Mayor Ashleigh Aitken (Anaheim)
Mayor Farrah Khan (Irvine)
Mayor Karen Bass (Los Angeles)
Mayor London Breed (San Francisco)
Mayor Matt Mahan (San José)
Mayor Patricia Lock Dawson (Riverside)
Mayor Rex Richardson (Long Beach)
Mendocino Fire Protection District
Midpeninsula Regional Open Space District
Million Voters Project
Monte Vista Water District
Monterey Peninsula Regional Park District
Mutual Housing California
National Association of Social Workers - California Chapter
North Central Fire Protection District
North County Fire Protection District
Oakland Rising
Olympic Valley Public Service District
Otay Water District
Parent Voices Oakland
Physicians for Social Responsibility – LA
PowerSwitch Action
Public Advocates
Rancho Adobe Fire Protection District
Rim of the World Recreation and Park District
Safe Return Project

San Diego for Every Child
 San Francisco Rising
 San Joaquin County Mosquito and Vector Control District
 San Ramon Valley Fire Protection District
 Santa Clara Valley Water District
 Santa Clara Valley Open Space Authority
 Sonoma Water
 Southern California Association of Non-Profit Housing
 Southern Marin Fire Protection District
 Summerland Sanitary District
 Stege Sanitary District
 Strategic Concepts in Organizing and Policy Education
 Tahoe City Public Utility District
 Three Valleys Municipal Water District
 Town of Apple Valley
 Town of Corte Madera
 Town of Discovery Bay, CSD
 TreePeople
 Truckee Sanitary District
 UNITE-HERE
 United Domestic Workers/AFSCME Local 3930
 Utility Workers Union of America
 Valley Sanitary District
 Vista Irrigation District
 Voices in Solidarity Against Oil in Neighborhoods
 Working Partnerships USA
 YMCA of San Diego County

Oppose: NOTE – Opposition reflects a prior version of the bill.

Anaheim Chamber of Commerce
 Brea Chamber of Commerce
 Apartment Association of Greater Los Angeles
 Apartment Association of Orange County
 Brea Chamber of Commerce
 Building Owners and Managers Association of California
 California Association of Realtors
 California Building Industry Association
 California Business and Industrial Association
 California Business Properties Association
 California Business Roundtable
 California Chamber of Commerce
 California Farm Bureau
 California Farm Workers and Families
 California Forestry Association
 California Fuels and Convenience Alliance
 California Hispanic Chambers of Commerce
 California Hotel and Lodging Association
 California Manufacturers and Technology Association
 California Rental Housing Association

California Retailers Association
California Taxpayer Protection Committee
California Taxpayers Association
Carlsbad Chamber of Commerce
Central Coast Taxpayers Association
Central Valley Business Federation
Central Valley Taxpayers Association
Chino Valley Chamber of Commerce
Citrus Heights Chamber of Commerce
Contra Costa Taxpayers Association
Dana Point Chamber of Commerce
Danville Area Chamber of Commerce
Fontana Chamber of Commerce
Fremont Chamber of Commerce
Garden Grove Chamber of Commerce
Gateway Chambers Alliance
Greater High Desert Chamber of Commerce
Greater Irvine Chamber of Commerce
Greater San Fernando Valley Chamber of Commerce
Half Moon Bay Coastside Chamber of Commerce
Howard Jarvis Taxpayers Association
Imperial Valley Regional Chamber of Commerce
Inland Empire Latino Coalition – San Bernardino-Riverside Counties
Jesse Miranda Center for Hispanic Leadership
La Cañada Flintridge Chamber of Commerce
Laguna Niguel Chamber of Commerce
Lake Elsinore Valley Chamber of Commerce
Livermore Valley Chamber of Commerce
Lodi Chamber of Commerce
Long Beach Area Chamber of Commerce
Los Angeles Area Chamber of Commerce
Los Angeles Business Federation
Los Angeles County Taxpayers Association
Mission Viejo Chamber of Commerce
NAIOP of California
National Diversity Coalition
National Federation of Independent Business – California
Norwalk Chamber of Commerce
Oceanside Chamber of Commerce
Orange Chamber of Commerce
Orange County Business Council
Orange County Taxpayers Association
Palm Desert Area Chamber of Commerce
Palos Verdes Peninsula Chamber of Commerce
Paso Robles and Templeton Chamber of Commerce
Placer County Taxpayers Association
Redondo Beach Chamber of Commerce
Sacramento Taxpayer Association
San Diego Tax Fighters
Santa Ana Chamber of Commerce

Santa Maria Valley Chamber of Commerce
Silicon Valley Taxpayers Association
Simi Valley Chamber of Commerce
Solano County Taxpayers Association
South Bay Association of Chambers of Commerce
Southern California Leadership Council
Sutter-Yuba Taxpayers Association
The Chamber of Commerce for Greater Brawley
Torrance Area Chamber of Commerce
Tulare Chamber of Commerce
United Chambers of the San Fernando Valley
United Latinos Action
Vacaville Chamber of Commerce
Valley Industry and Commerce Alliance
Ventura County Taxpayers Association
Walnut Creek Chamber of Commerce
Whittier Together
Women Veterans Alliance
Yorba Linda Chamber of Commerce
Yuba-Sutter Chamber of Commerce
15,000+ Individuals

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