

November 12, 2009

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Amdt. #1S

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INITIATIVE COORDINATOR
ATTORNEY GENERAL'S OFFICE

VIA MESSENGER

Office of the Attorney General
1300 "I" Street
Sacramento, CA 95814

Attention: Krystal M. Paris

Re: *Community Funding Protection and Accountability Act of 2010*
Proposed Initiative 09-0071, Amendment #1

Dear Ms. Paris:

Please accept the enclosed amended version of the "Community Funding Protection and Accountability Act of 2010," which we filed on October 30, 2009.

Please direct all correspondence and inquiries regarding this measure to:

Robin B. Johansen
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201 Dolores Avenue
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Sincerely, |

Roberta B. Johansen

James C. Harrison

Enclosures
(00095071)

COMMUNITY FUNDING PROTECTION AND ACCOUNTABILITY ACT OF 2010

SECTION 1. Title.

This measure shall be known as the "Community Funding Protection and Accountability Act of 2010."

SECTION 2. Findings and Declarations.

The people of California find and declare as follows:

1. Citizens are best served when government is directly accessible and accountable to the people.
2. Local or community governments are closer to the people, and therefore best suited to provide community-level services such as schools, police and fire protection, and services that protect the most vulnerable members of society.
3. Providing a quality education to our children is an investment in the future of California, and providing and protecting funding for public schools is vital to the future of our state.
4. Californians are a people on the move, and protecting funding for local road, highway, and transportation repairs encourages communities to make measurable improvements to mobility that are critical to providing jobs and restoring the economic vitality of our state.
5. Support for essential community services has been jeopardized when the state has borrowed or redirected locally levied funds, denying communities the stable funding they need to provide local services.
6. It's time to protect funding for local services and give communities new tools and resources to set their own priorities and chart their own paths for the future.
7. Declaring these funds to be owned by the local governments that levy them will protect these revenues from arbitrary action by state officials, and

thereby protect funding for vital local services, including schools, public safety, and transportation.

8. Community governments within regions should be encouraged to coordinate efforts to address community needs and priorities, and to work together toward common goals.

9. Community governments should be authorized to develop a strategic plan that establishes goals, improves outcomes, and provides the resources necessary to accomplish these goals.

10. Greater local control over revenue should be tied to increased accountability for results, requiring government to become more efficient and effective to reduce waste of taxpayer dollars.

SECTION 3. Purpose and Intent.

To promote efficiency, effectiveness, and accountability in local government, the people of California hereby enact the Community Funding Protection and Accountability Act of 2010. It is the intent of the Act to:

(a) Authorize local government agencies to develop a countywide strategic action plan that establishes goals, increases efficiency, and improves the outcomes of local services.

(b) Provide an incentive to local governments, along with the necessary resources, to coordinate their efforts by authorizing counties to levy sales and use taxes with the approval of a majority of local voters.

(c) Protect local governments from the State borrowing or redirecting locally levied funds so local governments have stable revenues to provide community services.

(d) Require local governments to publicly report the results of implementing their strategic plans annually so that they are accountable to taxpayers and voters.

SECTION 4. Article XI A is added to the California Constitution:

Article XI A. SEC. 1. (a) In addition to any authority conferred by Section 25.5 or Section 29 of Article XIII, local government agencies may develop and implement a Countywide Strategic Action Plan to make effective use of existing resources and to provide additional revenue to accelerate progress toward community goals.

(b) In counties where a Countywide Strategic Action Plan is adopted, the county governing board, by a simple majority vote, may place on the ballot for voter approval a measure to increase the sales and use tax by a majority vote of the voters voting on the proposition.

(c) Notwithstanding Section 1 of Article XIII A, Section 15 of Article XI, or any other provision of law or this Constitution, the proceeds of such a tax shall be allocated to the counties that enact them, to be distributed according to law.

(d) Revenues received by any school district pursuant to subdivision (e) of Government Code Section 6537 shall not be considered local proceeds of taxes for purposes of Sections 8 and 8.5 of Article XVI.

(e) For purposes of this Article, "local government agency" means any local government as defined in Section 1 of Article XIII C.

SECTION 5. Section 24 of Article XIII of the California Constitution is amended to read:

SEC. 24. (a) The Legislature may not impose taxes for local purposes but may authorize local governments to impose them.

Money appropriated from state funds to a local government for its local purposes may be used as provided by law.

Money subvended to a local government under Section 25 may be used for state or local purposes.

(b) The proceeds of any non-ad valorem tax or assessment levied or imposed by a county, city, city and county, including a charter city or county, any special district, or any other local or regional governmental

entity, belong exclusively to the entity that enacted the tax or assessment. Ad valorem property taxes belong exclusively to the local agencies or jurisdictions within the county in which they are collected and shall be allocated among those agencies as provided in Section 25.5 of this Article.

SECTION 6. Section 25.5 of Article XIII of the California Constitution is amended to read:

SEC. 25.5. (a) On or after November 3, 2004, the Legislature shall not enact a statute to do any of the following:

(1)(A) Except as otherwise provided in subparagraph (B), modify the manner in which ad valorem property tax revenues are allocated in accordance with subdivision (a) of Section 1 of Article XIII A so as to reduce for any fiscal year the percentage of the total amount of ad valorem property tax revenues in a county that is allocated among all of the local agencies in that county below the percentage of the total amount of those revenues that would be allocated among those agencies for the same fiscal year under the statutes in effect on November 3, 2004. For purposes of this subparagraph, "percentage" does not include any property tax revenues referenced in paragraph (2).

(B) ~~Beginning with the 2008-09~~ *In the 2009-10 fiscal year only*, and except as otherwise provided in subparagraph (C), subparagraph (A) may be suspended for a *that* fiscal year if all of the following conditions are met:

(i) The Governor issues a proclamation that declares that, due to a severe state fiscal hardship, the suspension of subparagraph (A) is necessary.

(ii) The Legislature enacts an urgency statute, pursuant to a bill passed in each house of the Legislature by rollcall vote entered in the journal, two-thirds of the membership concurring, that contains a suspension of subparagraph (A) for that fiscal year and does not contain any other provision.

(iii) No later than the effective date of the statute described in clause (ii), a statute is enacted that provides for the full repayment to local agencies of the total amount of revenue losses, including interest as provided by law, resulting from the modification of ad valorem property tax revenue allocations to local agencies. This full repayment shall be made not later

than the end of the third fiscal year immediately following the fiscal year to which the modification applies.

~~(C)(i) Subparagraph (A) shall not be suspended for more than two fiscal years during any period of 10 consecutive fiscal years, which period begins with the first fiscal year for which subparagraph (A) is suspended.~~

~~(ii) Subparagraph (A) shall not be suspended during any fiscal year if the full repayment required by a statute enacted in accordance with clause (iii) of subparagraph (B) has not yet been completed.~~

~~(iii) Subparagraph (A) shall not be suspended during any fiscal year if the amount that was required to be paid to cities, counties, and cities and counties under Section 10754.11 of the Revenue and Taxation Code, as that section read on November 3, 2004, has not been paid in full prior to the effective date of the statute providing for that suspension as described in clause (ii) of subparagraph (B).~~

~~(iv) (C).~~ A suspension of subparagraph (A) shall not result in a total ad valorem property tax revenue loss to all local agencies within a county that exceeds 8 percent of the total amount of ad valorem property tax revenues that were allocated among all local agencies within that county for the fiscal year immediately preceding the fiscal year for which subparagraph (A) is suspended.

(2)(A) Except as otherwise provided in subparagraphs (B) and (C), restrict the authority of a city, county, or city and county to impose a tax rate under, or change the method of distributing revenues derived under, the Bradley-Burns Uniform Local Sales and Use Tax Law set forth in Part 1.5 (commencing with Section 7200) of Division 2 of the Revenue and Taxation Code, as that law read on November 3, 2004. The restriction imposed by this subparagraph also applies to the entitlement of a city, county, or city and county to the change in tax rate resulting from the end of the revenue exchange period, as defined in Section 7203.1 of the Revenue and Taxation Code as that section read on November 3, 2004.

(B) The Legislature may change by statute the method of distributing the revenues derived under a use tax imposed pursuant to the Bradley-Burns Uniform Local Sales and Use Tax Law to allow the State to participate in an interstate compact or to comply with federal law.

(C) The Legislature may authorize by statute two or more specifically identified local agencies within a county, with the approval of the governing body of each of those agencies, to enter into a contract to exchange allocations of ad valorem property tax revenues for revenues derived from a tax rate imposed under the Bradley-Burns Uniform Local Sales and Use Tax Law. The exchange under this subparagraph of revenues derived from a tax rate imposed under that law shall not require voter approval for the continued imposition of any portion of an existing tax rate from which those revenues are derived.

(3) Except as otherwise provided in subparagraph (C) of paragraph (2), change for any fiscal year the pro rata shares in which ad valorem property tax revenues are allocated among local agencies in a county other than pursuant to a bill passed in each house of the Legislature by rollcall vote entered in the journal, two-thirds of the membership concurring.

(4) Extend beyond the revenue exchange period, as defined in Section 7203.1 of the Revenue and Taxation Code as that section read on November 3, 2004, the suspension of the authority, set forth in that section on that date, of a city, county, or city and county to impose a sales and use tax rate under the Bradley-Burns Uniform Local Sales and Use Tax Law.

(5) Reduce, during any period in which the rate authority suspension described in paragraph (4) is operative, the payments to a city, county, or city and county that are required by Section 97.68 of the Revenue and Taxation Code, as that section read on November 3, 2004.

(6) Restrict the authority of a local entity to impose a transactions and use tax rate in accordance with the Transactions and Use Tax Law (Part 1.6 (commencing with Section 7251) of Division 2 of the Revenue and Taxation Code), or change the method for distributing revenues derived under a transaction and use tax rate imposed under that law, as it read on November 3, 2004.

(7) Borrow, transfer, restrict, or otherwise use or appropriate any funds in the Transportation Investment Fund established pursuant to Article XIX B for any purpose other than those specified in paragraph 2 of subdivision (b) of Section 1 of Article XIX B.

(8) Borrow, reallocate, transfer, restrict, or otherwise use or appropriate any taxes on ad valorem real property or tangible personal property allocated to a community redevelopment agency pursuant to Section 16 of Article XVI except for the purpose of (i) making payments to affected taxing entities pursuant to Sections 33607.5 and 33607.7 of the Health and Safety Code or similar statutes requiring such payments, as those statutes read on January 1, 2008; or (ii) increasing, improving, and preserving the supply of low and moderate income housing available at affordable housing cost.

(b) For purposes of this section, the following definitions apply:

(1) "Ad valorem property tax revenues" means all revenues derived from the tax collected by a county under subdivision (a) of Section 1 of Article XIII A, regardless of any of this revenue being otherwise classified by statute.

(2) "Local agency" has the same meaning as specified in Section 95 of the Revenue and Taxation Code as that section read on November 3, 2004.

SECTION 7. Section 1 of Article XIX B of the Constitution is amended to read:

SECTION 1. (a) For the 2003-04 fiscal year and each fiscal year thereafter, all moneys that are collected during the fiscal year from taxes under the Sales and Use Tax Law (Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code), or any successor to that law, upon the sale, storage, use, or other consumption in this State of motor vehicle fuel, and that are deposited in the General Fund of the State pursuant to that law, shall be transferred to the Transportation Investment Fund, which is hereby created in the State Treasury.

(b)(1) For the 2003-04 to 2007-08 fiscal years, inclusive, moneys in the Transportation Investment Fund shall be allocated, upon appropriation by the Legislature, in accordance with Section 7104 of the Revenue and Taxation Code as that section read on March 6, 2002.

(2) For the 2008-09 fiscal year and each fiscal year thereafter, moneys in the Transportation Investment Fund shall be allocated solely for the following purposes:

(A) Public transit and mass transportation.

(B) Transportation capital improvement projects, subject to the laws governing the State Transportation Improvement Program, or any successor to that program.

(C) Street and highway maintenance, rehabilitation, reconstruction, or storm damage repair conducted by cities, including a city and county.

(D) Street and highway maintenance, rehabilitation, reconstruction, or storm damage repair conducted by counties, including a city and county.

(c) For the 2008-09 fiscal year and each fiscal year thereafter, moneys in the Transportation Investment Fund shall be allocated, upon appropriation by the Legislature, as follows:

(A) Twenty percent of the moneys for the purposes set forth in subparagraph (A) of paragraph (2) of subdivision (b).

(B) Forty percent of the moneys for the purposes set forth in subparagraph (B) of paragraph (2) of subdivision (b).

(C) Twenty percent of the moneys for the purposes set forth in subparagraph (C) of paragraph (2) of subdivision (b).

(D) Twenty percent of the moneys for the purposes set forth in subparagraph (D) of paragraph (2) of subdivision (b).

~~(d)(1) Except as otherwise provided by paragraph (2), the transfer of revenues from the General Fund of the State to the Transportation Investment Fund pursuant to subdivision (a) may be suspended, in whole or in part, for a fiscal year if all of the following conditions are met:~~

~~(A) The Governor issues a proclamation that declares that, due to a severe state fiscal hardship, the suspension of the transfer of revenues required by subdivision (a) is necessary.~~

~~(B) The Legislature enacts by statute, pursuant to a bill passed in each house of the Legislature by rollcall vote entered in the journal, two-thirds of the membership concurring, a suspension for that fiscal year of the transfer of~~

~~revenues required by subdivision (a) and the bill does not contain any other unrelated provision.~~

~~(C) No later than the effective date of the statute described in subparagraph (B), a separate statute is enacted that provides for the full repayment to the Transportation Investment Fund of the total amount of revenue that was not transferred to that fund as a result of the suspension, including interest as provided by law. This full repayment shall be made not later than the end of the third fiscal year immediately following the fiscal year to which the suspension applies.~~

~~(2)(A) The transfer required by subdivision (a) shall not be suspended for more than two fiscal years during any period of 10 consecutive fiscal years, which period begins with the first fiscal year commencing on or after July 1, 2007, for which the transfer required by subdivision (a) is suspended.~~

~~(B) The transfer required by subdivision (a) shall not be suspended during any fiscal year if a full repayment required by a statute enacted in accordance with subparagraph (C) of paragraph (1) has not yet been completed.~~

~~(e)(d) The Legislature may enact a statute that modifies the percentage shares set forth in subdivision (c) by a bill passed in each house of the Legislature by rollcall vote entered in the journal, two-thirds of the membership concurring, provided that the bill does not contain any other unrelated provision and that the moneys described in subdivision (a) are expended solely for the purposes set forth in paragraph (2) of subdivision (b).~~

~~(f)(e)(1) An amount equivalent to the total amount of revenues that were not transferred from the General Fund of the State to the Transportation Investment Fund, as of July 1, 2007, because of a suspension of transfer of revenues pursuant to this section as it read on January 1, 2006, but excluding the amount to be paid to the Transportation Deferred Investment Fund pursuant to Section 63048.65 of the Government Code, shall be transferred from the General Fund to the Transportation Investment Fund no later than June 30, 2016. Until this total amount has been transferred, the amount of transfer payments to be made in each fiscal year shall not be less than one-tenth of the total amount required to be transferred by June 30, 2016. The transferred revenues shall be allocated solely for the purposes set forth in~~

this section as if they had been received in the absence of a suspension of transfer of revenues.

(2) The Legislature may provide by statute for the issuance of bonds by the state or local agencies, as applicable, that are secured by the minimum transfer payments required by paragraph (1). Proceeds from the sale of those bonds shall be allocated solely for the purposes set forth in this section as if they were revenues subject to allocation pursuant to paragraph (2) of subdivision (b).

SECTION 8. Section 6537 is added to the Government Code:

SEC. 6537. (a) In order to develop a Countywide Strategic Action Plan pursuant to Article XI A of the Constitution, a majority of the members of the county governing body must agree to initiate the development of the plan and to adopt the plan.

(b) A Countywide Strategic Action Plan shall be developed through a public process that seeks to produce a common understanding of community challenges and the consequences of inaction, that rigorously and fairly assesses the impact of existing efforts, and that identifies a disciplined approach to make better use of existing and additional resources to ensure progress toward common goals. The County shall consult with local agencies responsible for services such as education, public safety, public health, and welfare, and each participating agency shall identify unmet needs in each of those areas.

(c) A Countywide Strategic Action Plan shall contain, at a minimum, the following:

(1) A declaration of community goals and desired outcomes.

(2) An inventory of existing publicly-funded programs and an assessment of which ones are effectively serving a public priority, those that need to be improved, and those that are duplicative, obsolete, ineffective, or no longer a priority.

(3) An inventory of the state agencies whose cooperation and assistance will be necessary to implement the plan, as well as any recommended changes in statute or regulation that would improve the chances of

successful implementation.

(4) A plan for addressing the goals, problems, and inefficiencies identified in paragraphs (1) through (3), a mechanism for measuring the outcomes of programs and progress toward established goals, and a plan for annually reporting outcomes and conducting public hearings to receive public comments on progress toward goals.

(5) A resource allocation plan developed by the county, in consultation with the cities in the county, that is aligned with the goals of the Countywide Strategic Action Plan and that specifies how the proceeds from an increase of up to an additional one cent in the sales and use tax shall, if approved pursuant to subdivision (d), be allocated among the county and the cities in the county.

(6) A plan submitted by each participating school district. School districts shall have exclusive authority to develop and submit plans for addressing the educational needs of their communities. These plans shall be included in the Countywide Strategic Action Plan. The County Superintendent of Schools may provide assistance to any requesting school district regarding preparation and implementation of the school district's portion of the plan. A participating school district may satisfy paragraph (4) of this subdivision by integrating any additional information into the school accountability report card it issues pursuant to subdivision (e) of Section 8.5 of Article XVI of the Constitution and Section 35256 of the Education Code.

(7) A plan submitted by each participating city. Cities shall have exclusive authority to develop and submit plans for addressing the needs of their communities. These plans shall be included in the Countywide Strategic Action Plan.

(d) In counties where a Countywide Strategic Action Plan has been adopted, the county governing board by a simple majority vote may place before the voters an increase of up to an additional one cent in the sales and use tax that is otherwise permitted by law. If approved by a majority of the voters voting on the measure, the proceeds of the tax shall be placed in the county treasury and distributed to the county and cities within the county based on the resource allocation plan required by paragraph (5) of subdivision (c).

(e) In counties where a Countywide Strategic Action Plan has been adopted and the sales and use tax has been increased in accordance with subdivision (d), the county and each city within the county shall allocate sufficient revenue from the property tax, the Bradley-Burns Uniform Local Sales and Use Tax, or any other tax to the school districts within the county equal to fifty percent of the revenues received from the increase of the sales tax enacted pursuant to subdivision (d). In the Countywide Strategic Action Plan, the county and each participating city shall specify the source of the funds to be so allocated, and the County Treasurer shall calculate and distribute the appropriate amount quarterly if the source of the funds is the sales and use tax, or within 30 days after the end of the fiscal year if the source of the funds is any other tax. The funds shall be allocated to school districts within the county on the basis of the school districts' average daily attendance.

(f) The State shall be prohibited from reducing subventions to the participating local government agencies in response to any tax approved pursuant to this Section and subdivision (b) of Section 1 of Article XI A of the Constitution.

(g) A Countywide Strategic Action Plan and any additional sales and use tax passed to implement the plan shall remain in place for 10 years, unless a majority of the members of the county governing body agree to dissolve or amend the plan earlier. The county governing board may vote to extend the plan beyond the original ten-year period, provided, however, that if it wishes to extend any additional sales and use tax passed to implement the plan, it must resubmit the additional tax to the voters pursuant to subdivision (d) of this section.

SECTION 9. Section 42246 is added to the Education Code:

SEC. 42246. A school district's receipt of a portion of any property tax, Bradley-Burns Uniform Local Sales and Use Tax, or any other tax pursuant to a Countywide Strategic Action Plan authorized by Article XI A of the Constitution shall not be considered in calculating the State's portion of the district's revenue limit under Section 42238 or any successor statute.

SECTION 10. Amendment.

The statutory provisions of this measure may be amended solely to further the purposes of this measure by a bill approved by a two-thirds vote of each house of the Legislature and signed by the Governor.

SECTION 11. Severability.

If any of the provisions of this measure or the applicability of any provision of this measure to any person or circumstances shall be found to be unconstitutional or otherwise invalid, such finding shall not affect the remaining provisions or applications of this measure to other persons or circumstances, and to that extent the provisions of this measure are deemed to be severable.