

SA2005 RF0023

January 6, 2005

VIA PERSONAL DELIVERY

The Honorable Bill Lockyer
Attorney General
1300 I Street
Sacramento, CA 95814

RECEIVED
JAN 11 2005
INITIATIVE COORDINATOR
ATTORNEY GENERAL'S OFFICE

Re: Request for Title and Summary
Initiative Constitutional Amendment

Dear Mr. Lockyer:

Pursuant to Article II, Section 10(d) of the California Constitution and Section 9002 of the Elections Code, I hereby request that a title and summary be prepared for the attached initiative constitutional amendment. Enclosed is a check for \$200. My residence address is attached.

Thank you for your assistance.

Sincerely,

LEWIS K. UHLER

Enclosure: Proposed Initiative

CALIFORNIA SPENDING LIMIT RESTORATION ACT

§1. Title. This measure shall be known and may be cited as the “California Spending Limit Restoration Act.”

§2. Findings and Declarations of Purpose.

(a) The voters of the State of California approved an initiative in 1979 (known as the Gann Limit) which effectively limited state and local government spending growth to changes in inflation and population. This initiative added Article XIII B to the State Constitution.

(b) For approximately a decade, Article XIII B controlled government spending growth in California in a responsible fashion and caused a refund of excess taxes to the people. Two subsequent initiatives undermined the effectiveness of the spending limit.

(c) If the original spending limit had remained in effect, California state politicians would not have been able to spend excessively, creating our current debt and deficit crisis.

(d) It is the intent of the people of California to restore the original spending limit with such modifications as will enhance its effectiveness and fairness.

§3. Purpose and Intent. In enacting this measure it is the intent of the people of the State of California to limit the growth of state and local government spending; to prevent future governmental fiscal crises; to encourage the wise and efficient use of taxpayer resources; to enjoy periodic tax reductions and refunds; and to stimulate the growth of jobs and a strong economy for themselves and their posterity.

§4. Article XIII B is hereby repealed.

§5. Article XIII B is added to read:

Sec. 1. The total annual appropriations subject to limitation of the state and of each local government shall not exceed the appropriations limit of such entity of government for the prior year adjusted for changes in the cost of living and population except as otherwise provided in this Article. Appropriations subject to limitation of the state during the first fiscal year following approval of this measure shall not exceed actual total appropriations of the state in the preceding fiscal year from the proceeds of taxes, as defined herein, adjusted for changes in cost of living and population as provided in this section. Appropriations subject to limitation of each local government during the first fiscal year following approval of this measure shall be the same as the amount calculated for such year for each such local government had the prior Article XIII B not been repealed.

Sec. 2.

(a) Revenues received by any entity of government in excess of that amount which is appropriated by such entity in compliance with this Article during the fiscal year shall be returned by a revision of tax rates or fee schedules within the next two subsequent fiscal years, or, for the state, within the next fiscal year by a rebate or tax credit.

(b) With respect to the state, fifty percent (50%) of state excess revenues in subsection (a) above, will be allocated to the State Transportation Investment Fund until amounts borrowed from the fund or sales taxes on fuels withheld from the fund are restored to the fund.

Sec. 3. The appropriations limit for any fiscal year pursuant to Sec. 1 shall be adjusted as follows:

(a) In the event that the financial responsibility of providing services is transferred, in whole or in part, whether by annexation, incorporation or otherwise, from one entity of government to another, then for the year in which such transfer becomes effective the appropriations limit of the transferee entity shall be increased by such reasonable amount as the said entities shall mutually agree, and the appropriations limit of the transferor entity shall be decreased by the same amount.

(b) In the event that the financial responsibility of providing services is transferred, in whole or in part, from an entity of government to a private entity, or the financial source for the provision of services is transferred, in whole or in part, from other revenues of an entity of government, to regulatory licenses, user charges or user fees, then for the year of such transfer the appropriations limit of such entity of government shall be decreased accordingly.

(c) In the event of an emergency, the appropriations limit may be exceeded provided that the appropriations limits in the following three years are reduced accordingly to prevent an aggregate increase in appropriations resulting from the emergency.

Sec. 4. The appropriations limit imposed on any new or existing entity of government by this Article may be established or changed by the electors of such entity, subject to and in conformity with constitutional and statutory voting requirements. The duration of any such change shall be as determined by said electors, but shall in no event exceed four years from the most recent vote of said electors creating or continuing such change.

Sec. 5.

(a) Each entity of government may establish such contingency, emergency, unemployment, reserve, retirement, sinking fund, trust or similar funds as it shall deem reasonable and proper. Contributions to any such fund, to the extent that such contributions are derived from the proceeds of taxes, shall for purposes of this Article constitute appropriations subject to limitation in the year of contribution. Neither withdrawals from any such fund, nor expenditures of (or

authorizations to expend) such withdrawals, nor transfers between or among such funds, shall for purposes of this Article constitute appropriations subject to limitation.

(b) The Budget Stabilization Account, established pursuant to Article XVI, Section 20, added to the Constitution in 2004, shall be considered a fund for purposes of this section. Contributions transferred to this account shall be appropriations subject to the limit except for those contributions actually applied to debt service. This account shall be the initial source of funds to meet an emergency, as may be declared by the governor and approved by a two-thirds vote of the legislature, and may be utilized as a source of operating funds for the state should the proceeds of taxes to the state in a fiscal year be less than the appropriations limit for the state for such fiscal year.

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

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

This section is not intended to conflict with or preempt the provisions of Proposition 1A, approved by a vote of the people in November 2004, which provides new requirements for the state with respect to the state's imposition of mandates on local governments.

Sec. 7. Nothing in this Article shall be construed to impair the ability of the state or of any local government to meet its obligations with respect to existing or future bonded indebtedness.

Sec. 8. As used in this Article and except as otherwise expressly provided herein:

(a) "Appropriations subject to limitation" of the state shall mean any authorization to expend during a fiscal year the proceeds of taxes levied by or for the state, exclusive of state subventions for the use and operation of local government (other than subventions made pursuant to Section 6 of this Article) and further exclusive of refunds of taxes, benefit payments from retirement, unemployment insurance and disability insurance funds.

(b) "Appropriations subject to limitation" of an entity of local government shall mean any authorization to expend during a fiscal year the proceeds of taxes levied by or for that entity and the proceeds of state subventions to that entity (other than subventions made pursuant to Section 6 of this Article) exclusive of refunds of taxes.

(c) "Proceeds of taxes" shall include, but not be restricted to, all tax revenues and the proceeds to an entity of government, from (1) regulatory licenses, user charges, and user fees to the extent that such proceeds exceed the costs reasonably borne by such entity in providing the regulation, product, or service, and (2) the investment of tax revenues. With respect to any local government, "proceeds of taxes" shall include subventions received from the state, other than pursuant to Section 6 of this Article, and, with respect to the state, proceeds of taxes shall exclude such subventions. From and after January 1, 2005, "tax" means any charge or exaction of any kind imposed by the state or any local government, except: (i) a charge imposed for a specific service to the payor by the entity of government, and not provided to those not charged, but only if the amount of the charge does not exceed the reasonable costs to the entity of government of the service provided; and except in the case of the judicial branch with respect to the state, the service has not been previously financed by tax revenue; (ii) a charge imposed for the regulatory costs of issuing licenses, permitting, inspection, audit and administrative adjudication; (iii) a charge imposed for entrance to or use of government property, except, with respect to the state, charges governed by Article XI, Section 15; (iv) a fine, penalty or other monetary charge imposed by the judicial branch of government or state or local administrative agency, as a result of any violation of a statute or regulation.

(d) "Local government" shall mean any city, county, city and county, school district, special district, authority, or other political subdivision of or within the state.

(e) "Cost of living" shall mean the Consumer Price Index for the United States as reported by the United States Department of Labor, or successor agency of the United States Government; provided, however, that for purposes of Section 1, the change in cost of living from the preceding year shall in no event exceed the change in California per capita personal income from said preceding year.

(f) "Population" of any entity of government, other than a school district, shall be determined by a method prescribed by the Legislature, provided that such determination shall be revised, as necessary, to reflect the periodic census conducted by the United States Department of Commerce, or successor agency of the United States Government. The population of any school district shall be such school district's average daily attendance as determined by a method prescribed by the Legislature.

(g) "Debt service" shall mean appropriations required to pay the cost of interest and redemption charges, including the funding of any reserve or sinking fund required in connection therewith, on indebtedness existing or legally authorized as of January 1, 1979, or on bonded indebtedness thereafter approved according to law by a vote of the electors of the issuing entity voting in an election for such purpose.

(h) The “appropriations limit” of each entity of government for each fiscal year shall be that amount which total annual appropriations subject to limitation may not exceed under Section 1 and Section 3.

(i) Except as otherwise provided in Section 5, “appropriations subject to limitation” shall not include local agency loan funds or indebtedness funds, investment (or authorizations to invest) funds of the state, or of an entity of local government in accounts at banks or savings and loan associations or in liquid securities.

Sec. 9. “Appropriations subject to limitation” for each entity of government shall not include:

(a) Debt service. With respect to the state, however, the treasurer shall not cause general obligation bonds to be issued in an amount which would require annual debt service to exceed five percent (5%) of general fund appropriations.

(b) Appropriations required for purposes of complying with mandates of the courts or the federal government which, without discretion, require an expenditure for additional services or which unavoidably make the providing of existing services more costly.

(c) Appropriations of any special district which existed on January 1, 1978, and which did not as of the 1977-78 fiscal year levy an ad valorem tax on property in excess of 12 ½ cents per \$100 of assessed value; or the appropriations of any special district then existing or thereafter created by a vote of the people, which is totally funded by other than the proceeds of taxes.

Sec. 10. If any appropriation category shall be added to or removed from appropriations subject to limitation, pursuant to final judgment of any court of competent jurisdiction and any appeal therefrom, the appropriations limit shall be adjusted accordingly.

Sec. 11. Notwithstanding any other provision of law, including this Constitution, any taxpayer shall have standing to bring a legal action against the state or a local government for violating any provision of this article. The action may seek declaratory relief, injunctive relief, a writ of mandate or any other relief that a court may deem appropriate. In any such action, the state or local government shall have the burden of demonstrating compliance with this article. Actions brought pursuant to this section shall have calendar preference over all other actions.

Sec. 12. If any provision of this act, or part thereof, is for any reason held to be invalid or unconstitutional, the remaining provisions shall not be affected but shall remain in full force and effect, and to this end the provisions are severable.

Sec. 10. This Article shall be effective commencing with the first day of the fiscal year following its adoption.