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INITIATIVE COORDINATOR
ATTORNEY GENERAL'S OFFICE

October 9, 2009

VIA MESSENGER

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

Attention: Krystal M. Paris

Re: *The Local Voter Control & Government Accountability Act*

Dear Ms. Paris:

Pursuant to Elections Code section 9002, we request that the Attorney General prepare a title and summary of a measure entitled "The Local Voter Control & Government Accountability Act." The text of the measure, a check for \$200.00, the address at which we are registered to vote and the signed statement certifying that we will not willfully allow initiative signatures to be used for purposes other than qualification of the measure are enclosed.

Please direct all correspondence and inquiries regarding this measure to:

James C. Harrison
Margaret R. Prinzing
Remcho, Johansen & Purcell, LLP
201 Dolores Avenue
San Leandro, CA 94577
Phone: (510) 346-6200
Fax: (510) 346-6201

Sincerely,

< James C. Harrison

✓ Margaret R. Prinzing

MRP:NL
Enclosures
(00085556)

LOCAL VOTER CONTROL & GOVERNMENT ACCOUNTABILITY ACT

SECTION ONE. TITLE.

This Act shall be known as the "Local Voter Control & Government Accountability Act."

SECTION TWO. FINDINGS AND DECLARATIONS.

The people of the State of California find and declare as follows:

- (a) Local voters should have the power to make their own decisions about maintaining vital local services like education, law enforcement, and fire protection, and investing in community infrastructure like schools, roads, and hospitals.
- (b) When local voters approve funding for a specific community project or service, the use of those funds should be subject to strict accountability provisions, such as oversight by committees comprised of citizens and independent performance and expenditure audits.
- (c) Unfortunately, the ability of local voters to make decisions on needed funding for vital projects and services and to impose strict accountability requirements on the expenditure of local funds is currently hindered by state laws that are outdated and inconsistent.
- (d) This problem has been made worse by the dysfunction in the state capital. State politicians have seized too much control over how funds are spent at the local level on schools, police, fire protection, and other vital local services, and state politicians have slashed funding for these critical services.
- (e) In the past two years alone, the state has cut or taken billions of dollars in funding for schools, fire protection, emergency response, law enforcement, and local health services.
- (f) The economic crisis and state budget cuts are forcing cities, counties, and special districts, including school districts, across California to make unprecedented, harmful cuts to police, fire protection, and schools, and to eliminate tens of thousands of teacher, firefighter, and law enforcement positions.
- (g) We need to change state law to empower local voters to maintain local services and infrastructure if and when they so choose, to enable more local

control over how funds are spent, and to ensure that local dedicated funding measures meet strict accountability requirements.

(h) Voter-approved local funds should stay in the community and be used for the intended purposes. Those dedicated funds should not be taken away or diverted by state government or shifted to other purposes.

SECTION THREE. PURPOSE AND INTENT.

In enacting this Act, it is the purpose and intent of the people of the State of California to:

(1) Ensure that local voters have the power to decide for themselves whether to maintain adequate local services in their own communities;

(2) Allow local voters and local law enforcement to make decisions about police staffing levels, crime and gang prevention programs, and other local public safety priorities;

(3) Allow local communities to make decisions about class sizes, classroom education, after school programs and other priorities for local schools; and

(4) Ensure local control and accountability by permitting at least 55 percent of local voters to approve a bond or special tax for local purposes like education, police, fire protection, traffic relief, and hospital construction, if and only if the local tax or bond measure meets strict new accountability requirements, including annual financial and performance audits and oversight by a group of independent citizens.

SECTION FOUR.

Section 1 of Article XIII A of the California Constitution is amended to read:

SEC. 1. (a) The maximum amount of any ad valorem tax on real property shall not exceed One percent (1%) of the full cash value of such property. The one percent (1%) tax to be collected by the counties and apportioned according to law to the districts within the counties.

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

(1) Indebtedness approved by the voters prior to July 1, 1978.

(2) 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.

(3) 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, including the furnishing and equipping of school facilities, or the acquisition or lease of real property for school facilities, approved by 55 percent of the voters of the district or county, as appropriate, voting on the proposition on or after the effective date of the measure adding this paragraph. This paragraph shall apply only if the proposition approved by the voters and resulting in the bonded indebtedness includes all of the following accountability requirements:

(A) A requirement that the proceeds from the sale of the bonds be used only for the purposes specified in Article XIII A, Section 1(b)(3), and not for any other purpose, including teacher and administrator salaries and other school operating expenses.

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

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

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

(4) Bonded indebtedness incurred by a city, county, city and county, or special district, for the acquisition, construction, reconstruction, rehabilitation, modernization, or replacement of public infrastructure, approved by 55 percent of the voters voting on the proposition on or after the effective date of the measure adding this paragraph. This paragraph shall apply only if the proposition approved by the voters and resulting in the bonded indebtedness includes all of the following accountability requirements:

(A) A requirement that the proceeds from the sale of the bonds be used only for purposes specified in Article XIII A, Section 1(b)(4), and not for any other purpose, including public employee salaries and local government operating expenses. For purposes of Article XIII A, Section 1(b)(4), public infrastructure includes, but is not limited to: improvements to public safety and transportation infrastructure; local hospital construction; projects to protect water quality; projects to treat wastewater or reduce pollution from stormwater runoff; the acquisition, restoration, or rehabilitation of parks, open space, and recreation facilities, and other infrastructure related to services provided by a city, county, city and county, or special district.

(B) A list of the specific public infrastructure to be funded and certification that the city, county, city and county, or special district has solicited and considered, at a public hearing noticed in accordance with all legal requirements, public comments from the community about the types of public infrastructure that should be funded with the bond proceeds.

(C) A requirement that the city, county, city and county, or special district cause an independent performance audit to be conducted annually to ensure that the funds have been expended only on the specific projects listed, and to evaluate the progress of the city, county, city and county, or special district in meeting the goals of the proposition.

(D) A requirement that the city, county, city and county, or special district cause an independent financial audit of the proceeds from the sale of the bonds to be conducted annually until all of those proceeds have been expended for the designated public infrastructure.

(E) A requirement that the city, county, city and county, or special district post the audits required by paragraphs (C) and (D) in a manner that is easily accessible to the public.

(F) 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 proposition.

(c) Notwithstanding any other provisions of law or of this Constitution, school districts, community college districts, and county offices of education, special districts, cities, counties, and cities and counties may levy ~~a 55 percent~~ ~~vote~~ an ad valorem tax pursuant to subdivision (b) with the approval of 55 percent of voters voting on the proposition.

(d) If Section 9.5 is added to Article XI prior to, or simultaneous with, the effective date of the measure adding this subdivision, paragraph (4) of subdivision (b) and subdivision (c) shall not apply to Section 9.5 of Article XI.

SECTION FIVE.

Section 4 of Article XIII A of the California Constitution is amended to read:

SEC. 4. (a) Cities, ~~C~~counties, ~~cities and counties~~, and special districts, by a two-thirds vote of the qualified electors of such district, may impose special taxes on such district, except ad valorem taxes on real property or a transaction tax or sales tax on the sale of real property within such ~~C~~city, ~~C~~county, ~~city and county~~, or special district.

(b) Notwithstanding subdivision (a), cities, counties, cities and counties, and special districts, by a vote of 55% of the qualified electors voting on the proposition, may impose special taxes on such district, except ad valorem taxes on real property or a transaction tax or sales tax on the sale of real property within such city, county, city and county, or special district, provided that each special tax proposition includes all of the following accountability requirements:

(1) A requirement that the revenues from the special tax be used only for the purposes specified in the proposition approved by the voters and resulting in the special tax, and not for any other purpose.

(2) A list of the specific purposes for which the revenues from the special tax will be used and certification that the city, county, city and county, or special district has solicited and considered, at a public hearing noticed in accordance with all legal requirements, public comments from the community about the specific purposes for which the revenues from the special tax should be used.

(3) A requirement that the city, county, city and county, or special district cause an independent performance audit to be conducted annually to ensure that the funds have been expended only on the specific purposes listed, and to evaluate the progress of the city, county, city and county, or special district in meeting the goals of the proposition.

(4) A requirement that the city, county, city and county, or special district cause an independent financial audit of the revenues from the special tax to be conducted annually until all of those revenues have been expended for the designated purposes.

(5) A requirement that the city, county, city and county, or special district post the audits required by paragraphs (3) and (4) in a manner that is easily accessible to the public.

(6) A requirement that the city, county, city and county, or special district appoint a citizens' oversight committee to ensure that revenues from the special tax are expended only for the purposes described in the proposition, and not for any other purpose.

(c) Revenues from a special tax approved pursuant to this section belong exclusively to the entity that levied the special tax and the State shall not transfer, borrow, or appropriate those revenues for any purpose.

(d) If Section 9.5 is added to Article XI prior to, or simultaneous with, the effective date of the measure adding this subdivision, subdivision (b) shall not apply to Section 9.5 of Article XI.

SECTION SIX.

Section 1 of Article XIII C of the California Constitution is amended to read:

SEC. 1. Definitions. As used in this article:

(a) "General tax" means any tax imposed for general governmental purposes.

(b) "Local government" means any county, city, city and county, including a charter city or county, any special district, or any other local or regional governmental entity.

(c) "Special district" means an agency of the State, formed pursuant to general law or a special act, for the local performance of governmental or proprietary functions with limited geographic boundaries including, but not limited to, school districts, community college districts, transportation authorities, and redevelopment agencies.

(d) "Special tax" means any tax imposed for specific purposes, including a tax imposed for specific purposes, which is placed into a general fund.

SECTION SEVEN.

Section 2 of Article XIII C of the California Constitution is amended to read:

SEC. 2. Local Government Tax Limitation. Notwithstanding any other provision of this Constitution:

(a) 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.

(b) No local government may impose, extend, or increase any general tax unless and until that tax is submitted to the electorate and approved by a majority vote. A general tax shall not be deemed to have been increased if it is imposed at a rate not higher than the maximum rate so approved. The election required by this subdivision shall be consolidated with a regularly scheduled general election for members of the governing body of the local government, except in cases of emergency declared by a unanimous vote of the governing body.

(c) Any general tax imposed, extended, or increased, without voter approval, by any local government on or after January 1, 1995, and prior to the effective date of this article, shall continue to be imposed only if approved by a majority vote of the voters voting in an election on the issue of the imposition, which election shall be held within two years of the effective date of this article and in compliance with subdivision (b).

(d) No local government may impose, extend, or increase any special tax unless and until that tax is submitted to the electorate and approved by ~~a two-thirds vote~~ the voters as required by Section 4 of Article XIII A. A special tax shall not be deemed to have been increased if it is imposed at a rate not higher than the maximum rate so approved.

SECTION EIGHT.

Section 3 of Article XIII D of the California Constitution is amended to read:

SEC. 3. Property Taxes, Assessments, Fees and Charges Limited.

(a) No tax, assessment, fee, or charge shall be assessed by any agency upon any parcel of property or upon any person as an incident of property ownership except:

(1) The ad valorem property tax imposed pursuant to Article XIII and Article XIII A.

(2) Any special tax ~~receiving a two-thirds vote pursuant to Section 4 of Article XIII A~~ approved by the voters as required by this Constitution.

(3) Assessments as provided by this article.

(4) Fees or charges for property-related services as provided by this article.

(b) For purposes of this article, fees for the provision of electrical or gas service shall not be deemed charges or fees imposed as an incident of property ownership.

SECTION NINE.

Section 18 of Article XVI of the California Constitution is amended to read:

SEC. 18. (a) No county, city, town, township, board of education, or school district, shall incur any indebtedness or liability in any manner or for any purpose exceeding in any year the income and revenue provided for such year, without the assent of two-thirds of the voters of the public entity voting at an election to be held for that purpose, except that with respect to any such public entity which is authorized to incur indebtedness for public school purposes, any proposition for the incurrence of indebtedness in the form of general obligation bonds for the purpose of repairing, reconstructing or replacing public school buildings determined, in the manner prescribed by law, to be structurally unsafe for school use, shall be adopted upon the approval of a majority of the voters of the public entity voting on the proposition at such election; nor unless before or at the time of incurring such indebtedness provision shall be made for the collection of an annual tax sufficient to pay the interest on such indebtedness as it falls due, and provide for a sinking fund for the payment of the principal thereof, on or before maturity, which shall not exceed forty years from the time of contracting the indebtedness.

(b) Notwithstanding subdivision (a), on or after the effective date of the measure adding this subdivision, in the case of any school district, community

college district, or county office of education, any proposition for the incurrence of indebtedness in the form of general obligation bonds for the construction, reconstruction, rehabilitation, or replacement of school facilities, including the furnishing and equipping of school facilities, or the acquisition or lease of real property for school facilities, shall be adopted upon the approval of 55 percent of the voters of the district or county, as appropriate, voting on the proposition at an election. This subdivision shall apply only to a proposition for the incurrence of indebtedness in the form of general obligation bonds for the purposes specified in this subdivision if the proposition meets all of the accountability requirements of paragraph (3) of subdivision (b) of Section 1 of Article XIII A.

(c) Notwithstanding subdivision (a), on or after the effective date of the measure adding this subdivision, in the case of any county, city, town, or township, any proposition for the incurrence of indebtedness in the form of general obligation bonds for public infrastructure shall be adopted upon the approval of 55 percent of the voters of the county, city, town, or township, as appropriate, voting on the proposition at an election. This subdivision shall apply only to a proposition for the incurrence of indebtedness in the form of general obligation bonds if the proposition meets all of the accountability requirements of paragraph (4) of subdivision (b) of Section 1 of Article XIII A.

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

(e) If Section 9.5 is added to Article XI prior to, or simultaneous with, the effective date of the measure adding this subdivision, subdivision (c) shall not apply to section 9.5 of Article XI.

SECTION TEN.

Section 2268 is added to the Revenue and Taxation Code, to read:

The bonds issued pursuant to Article XIII A, Section 1(b)(4) of the California Constitution may only be issued if the tax rate levied to meet the requirements of a bond measure approved at a single election would not exceed sixty dollars (\$60) per year per one hundred thousand dollars (\$100,000) of taxable property when assessed valuation is projected by the district to increase in accordance with Article XIII A of the California Constitution.

SECTION ELEVEN. CONFORMITY.

When a city, county, city and county, or special district enacts a proposition pursuant to the provisions of this measure, any statutory provisions that are inconsistent with this Act shall be construed in conformity with the requirements of this measure.

SECTION TWELVE. CONSTRUCTION.

If Section 9.5 is not added to Article XI prior to, or simultaneous with, the effective date of this measure, then subdivision (d) of Section 1 of Article XIII A, subdivision (d) of Section 4 of Article XIII A, and subdivision (e) of Section 18 of Article XVI shall have no force or effect.

SECTION THIRTEEN. SEVERABILITY.

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

SECTION FOURTEEN. CONFLICTING INITIATIVES.

In the event that this measure and another measure or measures relating to the same subject are approved at the same election, the provisions of 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 than a measure deemed to be in conflict with this measure, the provisions of this measure shall prevail in their entirety, and the other measure or measures shall be null and void.