Local Taxpayer, Public Safety and Transportation Protection Act of 2010

ATTACHMENT 2

Summary

Section One: Findings and Declarations

In order to maintain local control, California voters have repeatedly voted to restrict "state politicians in Sacramento" from taking revenues dedicated to funding local government services and to transportation improvement projects. Despite the clear intent and will of the voters, the State has repeatedly raided revenues dedicated to fund vital local government services and transportation improvement projects. More specifically, the state politicians have borrowed property tax; tried to borrow HUTA; taken redevelopment agency revenue; and public transit and capital improvement funding – all in the billions of dollars. All of these raids have had severe consequences.

Section Two: Statement of Purpose

The voters want to conclusively and completely prohibit state politicians from using revenues that the people have dedicated to local government services, transportation projects, and transportation services.

Section Three: Local taxes - No borrowing, reallocation or restriction in use

The Legislature may not interfere in any way with locally imposed parcel taxes or other local taxes such as UUT, TOT, BLT, Use Tax, etc. This means that they can't use the proceeds, reallocate them to some other agency, restrict how a local government uses the proceeds, or borrow them. Applies to all locally imposed taxes by cities, counties, schools, special districts, etc.

Section Four: Property Taxes – No more borrowing, reallocation for mandate reimbursement

This section (1) prohibits any future borrowings of the property tax. (2) prohibits the Legislature from using its power to reallocate property tax between and among cities, counties and special districts to reimburse for state mandates; and prohibits reallocation of VLF to reimburse for state mandates; and (3) prohibits requiring a redevelopment agency to transfer its tax increment revenues to another jurisdiction to benefit the state; or to use its tax increment revenues for a particular purpose that benefits the state. Exceptions are provided for affordable housing, and existing pass-through requirements.

Section Five: HUTA – No more borrowing or use for other purposes; statutory allocation change with 2/3 vote after CTC process; state share can be used for state issued bonds with voter approval after 11/10

This section (1) prohibits loaning HUTA funds to the General Fund; (2) allows existing statutory allocation of HUTA to be changed by legislature (with 2/3 vote) after following a public hearing process conducted by the California Transportation Commission; (3) allows State to use its HUTA to pay off bonds issued after November 2, 2010 with voter approval; (4) clarifies that State may not use local HUTA to pay off state-issued bonds; and (5) prohibits delay, deferral, suspension of allocation or use of funds for anything other than purposes specified in Article XIX (existing law).

Section Six: Public Transportation Account – No borrowing or use for other purposes; spillover deposited into PTA as originally required in 2001; no reduction of one-quarter cent sales tax in local transportation funds; definitions of "transportation planning" and "mass transportation"

This section: (1) requires spillover gas tax to be deposited into the PTA in accordance with the law in effect on June 1, 2001; (2) adds to the constitution the existing allocation of PTA monies: 50% to State; 50% to locals; (3) requires quarterly deposit of Prop 42 funds for public transit and mass transportation into the PTA; (4) prohibits borrowing of money in the PTA or use for any purposes other than transportation planning and mass transportation; and (4) defines "transportation planning" and "mass transportation." The definition of "mass transportation" is surface transportation, operated by bus, rail, ferry, etc; generally for which a fare is charged; and provided by any transit district, JPA, or other agencies that receive funds for these purposes. School buses would not be included as "mass transportation." In addition, this section prohibits the Legislature from reducing the one-quarter cent county use tax that is deposited into local transportation funds; and from borrowing, transferring, appropriating, or using the money for any other purpose.

Section Seven: Prop 42 – Sales Tax on Gasoline – No borrowing or use for other purposes; statutory allocation change with a 2/3 vote and after CTC public hearing process

This section (1) requires Prop 42 funds to be deposited directly into the Transportation Investment Fund (TIF) rather than in the General Fund (which requires Legislature to appropriate from GF to TIF); (2) removes authority of Legislature to borrow Prop 42 funds; (3) allows the Legislature to change existing allocation as between public transit and mass transportation; transportation capital improvements; and street and highway maintenance, etc. by cities and counties ONLY with 2/3 vote and after CTC conducts public hearings; (4) puts into the Constitution the existing allocation of Prop 42 funds for "public transit and mass transportation" ; (5) prohibits Legislature from using money for any other purposes. The definitions of "public transit" and "mass transportation" that are added in Section 6 are also added in Section 7.

Section Eight: Lawsuits. Voters provide for "continuous appropriation" so legislature is not relied upon to make payments of funds that it owes to local governments or state funds.

Under existing law, a court will not order the legislature to appropriate funds even if the law requires the appropriation. This means that if a city brings a lawsuit alleging that the Legislature owes it money (e.g. a mandate claim), and the court agrees with the city, the city may never get the money unless the Legislature chooses to follow the law. The ballot measure adds an article to the Constitution that seeks to solve this problem. If a city files a lawsuit alleging that the Legislature has violated Article XIX (HUTA); Article XIXA (PTA); or Article XIXB (Prop 42), and the court agrees with the city, then the measure provides for a continuous appropriation of funds to either pay the city (e.g. unlawful property tax borrowing); or repay an account (e.g. unlawful use of TIF funds), etc. Interest would accrue on the amount of the award.

Section Nine: Redevelopment

Article XVI, section 16 of the Constitution protects the system of tax-increment financing: The Legislature is not allowed to divert tax increments (to school districts, for example) prior to their receipt by redevelopment agencies. This measure protects the use of tax increment revenues after they have

been received by redevelopment agencies: The Legislature may not tell redevelopment agencies to make payments of tax increments to other jurisdictions for the benefit of the state; nor tell them to use tax increments for these purposes directly (e.g. repair schools). Section 9 explains this distinction.

Section Ten: Continuous appropriation

As mentioned above, the "continuous appropriation" is a tool used to avoid the need for the Legislature to make an appropriation of funds. The Constitution allows the State Treasury to make payments pursuant to an "appropriation made by law." This section makes it clear that the continuous appropriations in this measure are intended to be "appropriations made by law" within the meaning of the Constitution.

Section Eleven: Liberal Construction

Section Twelve: Conflicting statutes

Any statute enacted after October 19, 2009 and November 2, 2010 that would have been unlawful if the measure were in effect, is automatically repealed as of the effective date of the measure.

Section Thirteen: Conflicting ballot measures

Section Fourteen: Severability.

Sponsors: California Alliance for Jobs; League of California Cities; and California Transit Association

Date: December 16, 2009
Initiative 09-0063 (Amdt. #1-NS.)

The Attorney General of California has prepared the following title and summary of the chief purpose and points of the proposed measure:

PROHIBITS THE STATE FROM TAKING FUNDS USED FOR TRANSPORTATION OR LOCAL GOVERNMENT PROJECTS AND SERVICES. INITIATIVE CONSTITUTIONAL AMENDMENT. Prohibits the State from shifting, taking, borrowing, or restricting the use of tax revenues dedicated by law to fund local government services, community redevelopment projects, or transportation projects and services. Prohibits the State from delaying the distribution of tax revenues for these purposes even when the Governor deems it necessary due to a severe state fiscal hardship. Summary of estimate by Legislative Analyst and Director of Finance of fiscal impact on state and local government: Significant constraints on state authority over city, county, special district, and redevelopment agency funds. As a result, higher and more stable local resources, potentially affecting billions of dollars in some years. Commensurate reductions in state resources, resulting in major decreases in state spending and/or increases in state revenues. (09-0063.)