

Senate Constitutional Amendment No. 13

RESOLUTION CHAPTER 144

Senate Constitutional Amendment No. 13—A resolution to propose to the people of the State of California an amendment to the Constitution of the State, by amending Section 12 of Article IV thereof, and by amending Section 20 of, and adding Section 21 to, Article XVI thereof, relating to state finance.

[Filed with Secretary of State September 17, 2008.]

LEGISLATIVE COUNSEL'S DIGEST

SCA 13, Ashburn. State finance.

Existing provisions of the California Constitution require the Governor to submit to the Legislature, within the first 10 days of each calendar year, a proposed budget for the ensuing fiscal year containing itemized statements for recommended state expenditures and estimated state revenues. In addition, the Constitution prohibits the Legislature from passing, and the Governor from signing, a Budget Bill that would appropriate from the General Fund a total amount that, when combined with all appropriations from the General Fund for that fiscal year made as of the date of the Budget Bill's passage, and the amount of any General Fund moneys transferred to a reserve account, exceeds estimated General Fund revenues for that fiscal year. The estimate of General Fund revenues is required to be set forth in the Budget Bill.

This measure would require the Governor in his or her proposed budget to identify estimated total state resources available to meet recommended state expenditures and to further identify the amount of those resources that are anticipated to be one-time resources. The measure would prohibit passage of a Budget Bill that appropriates an amount that, when combined with prior appropriations and transfers to the reserve account, exceeds the estimate of General Fund revenues, transfers, and balances available from the prior fiscal year. The measure would require the estimate of General Fund revenues, transfers, and balances to be set forth in the Budget Bill.

Existing provisions of the California Constitution establish the Budget Stabilization Account in the General Fund and currently require the Controller, no later than September 30 of each year, to transfer from the General Fund to the account a sum equal to 3% of the estimated amount of General Fund revenues for the current fiscal year. This transfer of moneys is not required, unless otherwise directed by the Legislature by statute, in any fiscal year to the extent that the resulting balance in the account would exceed 5% of the General Fund revenues estimate set forth in the Budget Bill for that fiscal year, as enacted, or \$8,000,000,000, whichever is greater. This transfer of moneys also may be suspended or reduced for a fiscal year

as specified by an executive order issued by the Governor no later than June 1 of the preceding fiscal year. Of the moneys transferred to the account in each fiscal year, 50%, up to an aggregate amount of \$5,000,000,000 for all fiscal years, is deposited in the Deficit Recovery Bond Retirement Sinking Fund Subaccount and continuously appropriated to the Treasurer for the purpose of retiring deficit recovery bonds. All other moneys transferred to the account in a fiscal year are not deposited in the sinking fund subaccount and may, by statute, be transferred back to the General Fund.

This measure would rename this account the Budget Stabilization Fund. This measure would also provide that the transfer of moneys from the General Fund to the Budget Stabilization Fund is not required in any fiscal year to the extent that the resulting balance in the fund would exceed 12.5% of the General Fund revenues estimate set forth in the Budget Bill for that fiscal year, as enacted, and would delete the alternative \$8,000,000,000 limit on the fund. This measure would provide that, beginning with the 2010–11 fiscal year, the transfer of moneys from the General Fund to the fund may be suspended or reduced by executive order only for a fiscal year in which the estimated General Fund revenues, transfers, and balances available from the prior fiscal year are less than the total General Fund expenditures for the immediately preceding fiscal year as adjusted for changes in population and the cost of living, as defined. In addition, this measure would provide that funds not deposited in the sinking fund subaccount may be transferred from the Budget Stabilization Fund back to the General Fund by a statute containing no unrelated provisions, and that funds in the Budget Stabilization Fund may be loaned to the General Fund to address a General Fund cashflow deficit.

This measure would require the Director of Finance, on or before May 29 of each year, to report to the Legislature and the Governor an estimate of the amount of General Fund revenues, transfers, and balances available from the prior fiscal year for the current fiscal year and the impact of tax legislation adopted during the current fiscal year subsequent to the enactment of the Budget Bill. The measure would provide that if, pursuant to a formula based on those estimates, there are unanticipated revenues in the current fiscal year, those revenues may be used only for specified purposes, and in a specified order of priority.

Resolved by the Senate, the Assembly Concurring. That the Legislature of the State of California at its 2007–08 Regular Session commencing on the fourth day of December 2006, two-thirds of the membership of each house concurring, hereby proposes to the people of the State of California that the Constitution of the State be amended as follows:

First—That Section 12 of Article IV thereof is amended to read:

SEC. 12. (a) Within the first 10 days of each calendar year, the Governor shall submit to the Legislature, with an explanatory message, a budget for the ensuing fiscal year containing itemized statements for recommended state expenditures and estimated total state resources available to meet those expenditures. If recommended expenditures exceed estimated resources,

the Governor shall recommend the sources from which the additional resources should be provided. The itemized statement of estimated total state resources available to meet recommended expenditures submitted pursuant to this subdivision shall identify the amount, if any, of those resources anticipated to be one-time resources.

(b) The Governor and the Governor-elect may require a state agency, officer, or employee to furnish whatever information is deemed necessary to prepare the budget.

(c) (1) The budget shall be accompanied by a budget bill itemizing recommended expenditures.

(2) The budget bill shall be introduced immediately in each house by the persons chairing the committees that consider the budget.

(3) The Legislature shall pass the budget bill by midnight on June 15 of each year.

(4) Until the budget bill has been enacted, the Legislature shall not send to the Governor for consideration any bill appropriating funds for expenditure during the fiscal year for which the budget bill is to be enacted, except emergency bills recommended by the Governor or appropriations for the salaries and expenses of the Legislature.

(d) No bill except the budget bill may contain more than one item of appropriation, and that for one certain, expressed purpose. Appropriations from the General Fund of the State, except appropriations for the public schools, are void unless passed in each house by rollcall vote entered in the journal, two-thirds of the membership concurring.

(e) The Legislature may control the submission, approval, and enforcement of budgets and the filing of claims for all state agencies.

(f) For the 2004–05 fiscal year, or any subsequent fiscal year, the Legislature may not send to the Governor for consideration, nor may the Governor sign into law, a budget bill that would appropriate from the General Fund, for that fiscal year, a total amount that, when combined with all appropriations from the General Fund for that fiscal year made as of the date of the budget bill’s passage, and the amount of any General Fund moneys transferred to the Budget Stabilization Fund for that fiscal year pursuant to Section 20 of Article XVI, exceeds General Fund revenues, transfers, and balances available from the prior fiscal year for that fiscal year estimated as of the date of the budget bill’s passage. That estimate of General Fund revenues, transfers, and balances shall be set forth in the budget bill passed by the Legislature.

Second—That Section 20 of Article XVI thereof is amended to read:

SEC. 20. (a) The Budget Stabilization Fund is hereby created in the General Fund.

(b) In each fiscal year as specified in paragraphs (1) to (3), inclusive, the Controller shall transfer from the General Fund to the Budget Stabilization Fund the following amounts:

(1) No later than September 30, 2006, a sum equal to 1 percent of the estimated amount of General Fund revenues for the 2006–07 fiscal year.

(2) No later than September 30, 2007, a sum equal to 2 percent of the estimated amount of General Fund revenues for the 2007–08 fiscal year.

(3) No later than September 30, 2008, and annually thereafter, a sum equal to 3 percent of the estimated amount of General Fund revenues for the current fiscal year.

(c) The transfer of moneys shall not be required by subdivision (b) in any fiscal year to the extent that the resulting balance in the Budget Stabilization Fund would exceed 12.5 percent of the General Fund revenues estimate set forth in the budget bill for that fiscal year, as enacted. The Legislature may, by statute, direct the Controller, for one or more fiscal years, to transfer into the Budget Stabilization Fund amounts in excess of the levels prescribed by this subdivision.

(d) Subject to any restriction imposed by this section, funds transferred to the Budget Stabilization Fund shall be deemed to be General Fund revenues for all purposes of this Constitution.

(e) The transfer of moneys from the General Fund to the Budget Stabilization Fund may be suspended or reduced for a fiscal year as specified by an executive order issued by the Governor no later than June 1 of the preceding fiscal year. For a fiscal year commencing on or after July 1, 2010, this subdivision shall be operative only if the estimated General Fund revenues, transfers, and balances available from the prior fiscal year for that fiscal year are less than the total General Fund expenditures for the immediately preceding fiscal year adjusted for the change in population and the change in the cost of living for the State, as those terms are defined in Section 8 of Article XIII B, between the immediately preceding fiscal year and the fiscal year in which the transfer is made. For purposes of this subdivision, “General Fund revenues, transfers, and balances available from the prior fiscal year for that fiscal year” does not include revenues transferred from the General Fund to the Budget Stabilization Fund pursuant to subdivision (b) for that fiscal year, and “total General Fund expenditures for the immediately preceding fiscal year” does not include the expenditure of unanticipated revenues pursuant to Section 21.

(f) (1) Of the moneys transferred to the Budget Stabilization Fund in each fiscal year, 50 percent, up to the aggregate amount of five billion dollars (\$5,000,000,000) for all fiscal years, shall be deposited in the Deficit Recovery Bond Retirement Sinking Fund Subaccount, which is hereby created in the Budget Stabilization Fund for the purpose of retiring deficit recovery bonds authorized and issued as described in Section 1.3, in addition to any other payments provided for by law for the purpose of retiring those bonds. The moneys in the sinking fund subaccount are continuously appropriated to the Treasurer to be expended for that purpose in the amounts, at the times, and in the manner deemed appropriate by the Treasurer. Any funds remaining in the sinking fund subaccount after all of the deficit recovery bonds are retired shall be transferred to the Budget Stabilization Fund, and may be transferred to the General Fund pursuant to paragraph (2).

(2) All other funds transferred to the Budget Stabilization Fund in a fiscal year shall not be deposited in the sinking fund subaccount and may be transferred to the General Fund by a statute that contains no unrelated provisions.

(g) In addition to any transfer authorized by this section, funds in the Budget Stabilization Fund may be loaned to the General Fund to address a General Fund cashflow deficit.

Third—That Section 21 is added to Article XVI thereof, to read:

SEC. 21. (a) On or before May 29 of each year, the Director of Finance shall do both of the following:

(1) Estimate General Fund revenues, transfers, and balances available from the prior fiscal year for the current fiscal year and report that estimate to the Legislature and the Governor.

(2) Estimate the current fiscal year General Fund revenue impact of tax legislation enacted subsequent to the enactment of the budget bill for the current fiscal year and not included in the estimate required by subdivision (f) of Section 12 of Article IV, and report that estimate to the Legislature and the Governor.

(b) For purposes of this section, “unanticipated revenues” for a fiscal year shall be calculated as follows:

(1) The Director of Finance shall increase or decrease the estimate of General Fund revenues, transfers, and balances available from the prior fiscal year set forth in the budget bill for the current fiscal year pursuant to subdivision (f) of Section 12 of Article IV to reflect the current fiscal year General Fund revenue impact of tax legislation reported pursuant to paragraph (2) of subdivision (a).

(2) “Unanticipated revenues” shall be that amount of General Fund revenues equal to the amount, if any, by which the estimate of General Fund revenues, transfers, and balances available from the prior fiscal year reported pursuant to paragraph (1) of subdivision (a) exceeds 105 percent of the amount derived pursuant to paragraph (1) of this subdivision.

(c) After the date of the reports described in subdivision (a), unanticipated revenues may be used only as follows:

(1) Unanticipated revenues shall be appropriated to satisfy any additional General Fund obligation, arising under Section 8 as a result of the unanticipated revenues, including any maintenance factor allocation for the current fiscal year required pursuant to subdivision (e) of Section 8, that exceeds an amount equal to 5 percent of the estimate of General Fund revenues, transfers, and balances available from the prior fiscal year for the current fiscal year set forth in the enacted budget bill pursuant to subdivision (f) of Section 12 of Article IV.

(2) Any unanticipated revenues remaining after any appropriations described in paragraph (1) shall be transferred by statute to the Budget Stabilization Fund, up to the amount needed to increase the balance in the fund to an amount equal to 12.5 percent of the estimate of General Fund revenues and transfers as set forth in the enacted budget bill for that fiscal year.

(3) Any unanticipated revenues remaining after any appropriations and transfers described in paragraphs (1) and (2) shall be appropriated to retire outstanding budgetary obligations. For purposes of this paragraph, “budgetary obligations” means any of the following:

(A) Unfunded prior fiscal year General Fund obligations pursuant to Section 8.

(B) Any repayment obligations created by the suspension of subparagraph (A) of paragraph (1) of subdivision (a) of Section 25.5 of Article XIII.

(C) Any repayment obligations created by the suspension of subdivision (a) of Section 1 of Article XIX B.

(D) Bonded indebtedness authorized pursuant to Section 1.3.

(4) Any unanticipated revenues remaining after any appropriations and transfers described in paragraphs (1), (2), and (3) are made to retire all outstanding budgetary obligations shall be used as follows:

(A) Transfer by statute to the Budget Stabilization Fund.

(B) Appropriation for one-time infrastructure or other capital outlay purposes.

(C) Appropriation to retire, redeem, or defease outstanding general obligation or other bonded indebtedness of the State.

(D) Return to taxpayers within the current or immediately following fiscal year by a one-time revision of tax rates or fee schedules.

(E) Appropriation for unfunded liabilities for vested nonpension benefits for state annuitants.