



● **Board of Directors**
Communications and Legislation Committee

4/12/2016 Board Meeting

8-7

Subject

Express support for ACA 8 (Bloom, D-Santa Monica) – Local government financing: water facilities and infrastructure: voter approval

Executive Summary

Assembly Constitutional Amendment 8 (ACA 8) was introduced by Assembly Member Richard Bloom (D-Santa Monica) on February 18, 2016 ([Attachment 1](#)), and is sponsored by West Basin Municipal Water District. ACA 8 would place a constitutional amendment on the California statewide ballot scheduled for November 8, 2016. This amendment would create an exception under Article XIII A, Article XIII C, and Article XVI of the California Constitution enabling a special district, municipality or county to levy an ad valorem tax in an amount greater than 1 percent of the assessed property value (the Proposition 13 limit); impose, extend or increase a special tax; and/or incur bond indebtedness; so long as the tax is levied and the indebtedness is incurred for the purpose of constructing water, storm water or wastewater related infrastructure and is approved by 55 percent of the voters. Currently, unless otherwise exempted, ad valorem property taxes are subject to the Proposition 13 limit and *no* vote may be held to exempt them. Moreover, special taxes and bonded indebtedness for these purposes are currently subject to a two-thirds vote requirement, unless otherwise exempted.

Details

The supporters of ACA 8 state that the bill was modeled after Proposition 39, which was approved by California voters in 2000. Proposition 39 enabled school districts to levy ad valorem property taxes greater than 1 percent of the assessed property value (the Proposition 13 limit) so long as the property taxes are approved by at least a 55 percent vote, and also lowered the vote threshold for certain local agencies to incur bonded indebtedness to construct and rehabilitate school facilities from the two-thirds vote requirement in Article XVI of the California Constitution to a 55 percent threshold. Supporters of ACA 8 cite passage of Proposition 39 as benefitting the ability of California school districts to raise funds to address aging school facilities.

The capital improvement needs for California's water, storm water and wastewater infrastructure have been estimated in the billions over the coming decades. For drinking water alone, the Environmental Protection Agency released a survey in 2013 identifying \$384 billion in needed improvements for the nation's drinking water infrastructure through 2030. California's share is estimated at more than \$44 billion, with more than \$26 billion of that attributed to transmission and distribution system infrastructure. Only a small percentage of these projects have received funding through recent state bond measures.

Similar to Proposition 39, ACA 8 would exempt ad valorem property taxes for water, storm water and wastewater infrastructure from the Proposition 13 limit pursuant to a 55 percent vote threshold. ACA 8 would also lower the vote threshold for special taxes and bonded indebtedness for the same purposes to 55 percent from the existing two-thirds requirement. As a result, ACA 8 would likely improve opportunities to fund critical water supply, storm water, wastewater treatment, and surface and groundwater projects throughout California, which could benefit local water agencies and water users throughout the state.

Staff recommends support for the policy expressed in ACA 8 to provide local agencies greater flexibility to fund needed water infrastructure improvements.

The sponsor of ACA 8 (West Basin MWD) notes that the bill is supported by the California Municipal Utilities Association, the California Association of Sanitation Agencies, WaterReuse, the Southern California Water Committee, Three Valleys Municipal Water District, and the City of Anaheim.

Policy

Policy Principle on State-wide Infrastructure Financing – M.I. 45390 – June 10, 2003

California Environmental Quality Act (CEQA)

CEQA determination for Option #1:

The proposed action is not defined as a project under CEQA because it involves legislative proposals which do not involve any commitment to any specific project which may result in a potentially significant physical impact on the environment (CEQA Section 21065 and Section 15378(b)(1) of the State CEQA Guidelines).

The CEQA determination is: Determine that the proposed action is not defined as a project under CEQA pursuant to CEQA Section 21065 as well as Section 15378(b)(1) of the State CEQA Guidelines.

CEQA determination for Option #2:

None required

Board Options

Option #1

Adopt the CEQA determination that the proposed action is not defined as a project under CEQA, and
Authorize the General Manager to express support for ACA 8.

Fiscal Impact: No direct fiscal impact to Metropolitan

Business Analysis: If passed, ACA 8 would likely improve opportunities to fund local water infrastructure projects within Metropolitan’s service area.

Option #2


Take no position on ACA 8.

Fiscal Impact: No direct fiscal impact to Metropolitan

Business Analysis: The funding of local water infrastructure projects would continue to be subject to the limits on property taxes and to the two-thirds voting requirement for special taxes and bonded indebtedness, unless otherwise exempted.

Staff Recommendation

Option #1



Dee Zinke
Assistant General Manager/Chief External
Affairs Officer
4/6/2016
Date



Jeffrey Nightlinger
General Manager
4/6/2016
Date

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

Assembly Constitutional Amendment**No. 8****Introduced by Assembly Member Bloom**

February 18, 2016

Assembly Constitutional Amendment No. 8—A resolution to propose to the people of the State of California an amendment to the Constitution of the State, by amending Sections 1 and 4 of, and by adding Section 4.5 to, Article XIII A thereof, by amending Section 2 of Article XIII C thereof, by amending Section 3 of Article XIII D thereof, and by amending Section 18 of Article XVI thereof, relating to water facilities and infrastructure.

LEGISLATIVE COUNSEL'S DIGEST

ACA 8, as introduced, Bloom. Local government financing: water facilities and infrastructure: voter approval.

(1) The California Constitution prohibits the ad valorem tax rate on real property from exceeding 1% of the full cash value of the property, subject to certain exceptions.

This measure would create an additional exception to the 1% limit for a rate imposed by a city, county, city and county, or special district to service bonded indebtedness incurred to fund the construction, reconstruction, rehabilitation, or replacement of wastewater treatment facilities and related infrastructure, potable water producing facilities and related infrastructure, nonpotable water producing facilities and related infrastructure, and stormwater treatment facilities and related infrastructure, that is approved by 55% of the voters of the city, county, city and county, or special district, as applicable, if the proposition meets specified requirements, and would authorize a city, county, city and county, or special district to levy a 55% vote ad valorem tax.

(2) The California Constitution conditions the imposition of a special tax by a city, county, or special district upon the approval of $\frac{2}{3}$ of the voters of the city, county, or special district voting on that tax, and prohibits these entities from imposing an ad valorem tax on real property or a transactions or sales tax on the sale of real property.

This measure would instead condition the imposition, extension, or increase of a special tax by a city, county, city and county, or special district for the purpose of funding wastewater, stormwater, and water treatment, supply and delivery facilities and infrastructure, upon the approval of 55% of its voters voting on the proposition, if the proposition meets specified requirements. This measure would also make conforming changes to related provisions.

(3) The California Constitution prohibits specified local government agencies from incurring any indebtedness exceeding in any year the income and revenue provided in that year, without the assent of $\frac{2}{3}$ of the voters and subject to other conditions. In the case of a school district, community college district, or county office of education, the California Constitution permits a 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, to be adopted upon the approval of 55% of the voters of the district or county, as appropriate, voting on the proposition at an election.

This measure would similarly lower to 55% the voter-approval threshold for a city, county, or city and county to incur bonded indebtedness, exceeding in any year the income and revenue provided in that year, that is in the form of general obligation bonds issued to fund the construction, reconstruction, rehabilitation, or replacement of wastewater treatment facilities and related infrastructure, potable water producing facilities and related infrastructure, nonpotable water producing facilities and related infrastructure, and stormwater treatment facilities and related infrastructure.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

- 1 *Resolved by the Assembly, the Senate concurring,* That the
- 2 Legislature of the State of California at its 2015–16 Regular
- 3 Session commencing on the first day of December 2014, two-thirds
- 4 of the membership of each house concurring, hereby proposes to

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1 the people of the State of California, that the Constitution of the
2 State be amended as follows:

3 First— That Section 1 of Article XIII A thereof is amended to
4 read:

5 SECTION 1. (a) The maximum amount of any ad valorem
6 tax on real property shall not exceed ~~One 1 percent (1%)~~ of the
7 full cash value of ~~such~~ *that* property. The ~~one 1 percent (1%)~~ tax
8 ~~to~~ *shall* be collected by the counties and apportioned according to
9 law to the districts within the counties.

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

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

14 (2) Bonded indebtedness ~~for~~ *to fund* the acquisition or
15 improvement of real property approved on or after July 1, 1978,
16 by two-thirds of the votes cast by the voters voting on the
17 proposition.

18 (3) Bonded indebtedness incurred by a school district,
19 community college district, or county office of education for the
20 construction, reconstruction, rehabilitation, or replacement of
21 school facilities, including the furnishing and equipping of school
22 facilities, or the acquisition or lease of real property for school
23 facilities, approved by 55 percent of the voters of the district or
24 county, as appropriate, voting on the proposition on or after ~~the~~
25 ~~effective date of the measure adding this paragraph.~~ *November 8,*
26 *2000.* This paragraph shall apply only if the proposition approved
27 by the voters and resulting in the bonded indebtedness includes
28 all of the following accountability requirements:

29 (A) A requirement that the proceeds from the sale of the bonds
30 be used only for the purposes specified in ~~Article XIII A, Section~~
31 ~~1(b)(3);~~ *this paragraph* and not for any other purpose, including
32 teacher and administrator salaries and other school operating
33 expenses.

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

39 (C) A requirement that the school district board, community
40 college board, or county office of education conduct an annual,

1 independent performance audit to ensure that the funds have been
2 expended only on the specific projects listed.

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

8 (4) (A) *Bonded indebtedness, approved by 55 percent of the*
9 *voters of the city, county, city and county, or special district, as*
10 *appropriate, voting on the proposition on or after the effective*
11 *date of the measure adding this paragraph, incurred by a city,*
12 *county, city and county, or special district to fund the construction,*
13 *reconstruction, rehabilitation, or replacement of wastewater*
14 *treatment facilities and related infrastructure, potable water*
15 *producing facilities and related infrastructure, nonpotable water*
16 *producing facilities and related infrastructure, and stormwater*
17 *treatment facilities and related infrastructure. This paragraph*
18 *shall apply only if the proposition approved by the voters and*
19 *resulting in the bonded indebtedness includes all of the following*
20 *accountability requirements:*

21 (i) *A requirement that the proceeds from the sale of the bonds*
22 *be used only for the purposes specified in this paragraph and not*
23 *for any other purpose.*

24 (ii) *A list of any and all specific facilities and projects to be*
25 *funded.*

26 (iii) *A requirement that the governing board of the city, county,*
27 *city and county, or special district conduct an annual independent*
28 *performance audit to ensure that the funds have been expended*
29 *only on the specific projects listed.*

30 (iv) *A requirement that the governing board of the city, county,*
31 *city and county, or special district conduct an annual independent*
32 *financial audit of the proceeds from the sale of the bonds until all*
33 *of those proceeds have been expended for the projects identified.*

34 (B) *For purposes of this paragraph, "special district" has the*
35 *same meaning as that term is used in subdivision (c) of Section 1*
36 *of Article XIII C, excluding a school district and redevelopment*
37 *agency.*

38 (c) *Notwithstanding any other provisions of law or of this*
39 *Constitution, school districts, community college districts, and*

1 county offices of education may levy a 55 percent vote ad valorem
2 tax pursuant to *paragraph (3) of subdivision (b)*.

3 *(d) Notwithstanding any other provisions of law or of this*
4 *Constitution, a city, county, city and county, or special district*
5 *may levy a 55 percent vote ad valorem tax pursuant to paragraph*
6 *(4) of subdivision (b).*

7 Second— That Section 4 of Article XIII A thereof is amended
8 to read:

9 ~~SEC. 4. Cities, Counties and special districts, Except as~~
10 ~~provided by Section 4.5, a city, county, or special district, by a~~
11 ~~two-thirds vote of the qualified electors of such district, its voters~~
12 ~~voting on the proposition, may impose special taxes on such~~
13 ~~district, a special tax within that city, county, or special district,~~
14 ~~except an ad valorem taxes tax on real property or a transaction~~
15 ~~transactions tax or sales tax on the sale of real property within~~
16 ~~such City, County that city, county, or special district.~~

17 Third— That Section 4.5 is added to Article XIII A thereof,
18 to read:

19 SEC. 4.5. (a) The imposition, extension, or increase of a special
20 tax by a city, county, city and county, or special district, as may
21 otherwise be authorized by law for the purpose of funding
22 wastewater, stormwater, and water treatment, supply and delivery
23 facilities and infrastructure projects, is subject to approval by 55
24 percent of the voters in the city, county, city and county, or special
25 district, as applicable, voting on the proposition, if all of the
26 following conditions are met:

27 (1) The proposition is approved by a majority vote of the
28 membership of the governing board of a city, county, city and
29 county, or special district.

30 (2) The proposition contains all of the following accountability
31 requirements:

32 (A) A list of the specific projects that are to be funded.

33 (B) A requirement that the proceeds be used only for the projects
34 specified in the proposition, and not for any other purpose.

35 (C) To ensure compliance with subparagraph (B), a requirement
36 that the governing board of a city, county, city and county, or
37 special district conduct an annual, independent financial audit of
38 the amount of special tax proceeds collected and expended, and
39 the specified projects funded.

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1 (D) To ensure compliance with subparagraph (B), a requirement
2 that the governing board of a city, county, city and county, or
3 special district establish a citizens' oversight committee to review
4 all expenditures of proceeds and financial audits, and report its
5 findings to the governing board and to the public.

6 (b) For purposes of this section, "wastewater, stormwater, and
7 water treatment, storage, supply, and delivery facilities and
8 infrastructure projects" include, but are not limited to, projects that
9 promote any of the following:

10 (1) Water reuse and recycling for nonpotable reuse and direct
11 and indirect potable reuse.

12 (2) Local and regional surface and underground water storage,
13 including groundwater aquifer cleanup or recharge projects.

14 (3) Regional water conveyance facilities that improve integration
15 of separate water systems.

16 (4) Watershed protection, restoration, and management projects,
17 including projects that reduce the risk of wildfire or improve water
18 supply reliability.

19 (5) Stormwater resource management, including, but not limited
20 to, the following:

21 (A) Projects to reduce, manage, treat, or capture rainwater or
22 stormwater.

23 (B) Projects that provide multiple benefits such as water quality,
24 water supply, flood control, or open space.

25 (6) Conjunctive use of surface and groundwater storage
26 facilities.

27 (7) Water desalination.

28 (8) Improvement of water quality, including drinking water
29 treatment and distribution, groundwater and aquifer remediation,
30 matching water quality to water use, wastewater treatment, water
31 pollution prevention, and management of urban and agricultural
32 runoff.

33 Fourth— That Section 2 of Article XIII C thereof is amended
34 to read:

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

37 (a) ~~All taxes~~ Any tax imposed by any local government shall be
38 ~~deemed to be~~ is either a general taxes tax or a special taxes. Special
39 ~~purpose districts tax.~~ A special district or agencies, agency

1 including ~~a school districts, shall have no power~~ *district, has no*
2 *authority to levy a general taxes: tax.*

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

12 (c) Any general tax imposed, extended, or increased, without
13 voter approval, by any local government on or after January 1,
14 1995, and prior to the effective date of this article, ~~shall may~~
15 continue to be imposed only if *that general tax is* approved by a
16 majority vote of the voters voting in an election on the issue of the
17 imposition, which election shall be held ~~within two years of the~~
18 ~~effective date of this article~~ *no later than November 6, 1996*, and
19 in compliance with subdivision (b).

20 (d) ~~No~~ *Except as provided by subdivision (c) or (d) of Section*
21 *1 of, or Section 4.5 of, Article XIII A, a local government may not*
22 impose, extend, or increase any special tax unless and until that
23 tax is submitted to the electorate and approved by a two-thirds
24 vote. A special tax ~~shall is not be~~ deemed to have been increased
25 if it is imposed at a rate not higher than the maximum rate so
26 approved.

27 Fifth— That Section 3 of Article XIII D thereof is amended
28 to read:

29 SEC. 3. ~~Property Taxes, Assessments, Fees and Charges~~
30 ~~Limited.~~ (a) ~~No~~ *An agency shall not assess a tax, assessment, fee,*
31 *or charge shall be assessed by any agency upon any parcel of*
32 *property or upon any person as an incident of property ownership*
33 *except:*

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

36 (2) Any special tax receiving a two-thirds vote pursuant to
37 Section 4 of Article XIII A *or, as applicable, a 55 percent vote*
38 *pursuant to subdivision (c) or (d) of Section 1 of, or Section 4.5,*
39 *of Article XIII A.*

40 (3) Assessments as provided by this article.

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

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

6 Sixth— That Section 18 of Article XVI thereof is amended to
7 read:

8 SEC. 18. (a) ~~No~~ A county, city, town, township, board of
9 education, or school ~~district,~~ *district* shall *not* incur any
10 indebtedness or liability in any manner or for any purpose
11 exceeding in any year the income and revenue provided for ~~such~~
12 *that* year, without the assent of two-thirds of the voters of the public
13 entity voting at an election to be held for that purpose, except that
14 with respect to any ~~such~~ public entity ~~which~~ *that* is authorized to
15 incur indebtedness for public school purposes, any proposition for
16 the incurrence of indebtedness in the form of general obligation
17 bonds for the purpose of repairing, ~~reconstructing~~ *reconstructing*,
18 or replacing public school buildings determined, in the manner
19 prescribed by law, to be structurally unsafe for school use, shall
20 be adopted upon the approval of a majority of the voters of the
21 public entity voting on the proposition at ~~such~~ *that* election; nor
22 unless before or at the time of incurring ~~such~~ *indebtedness* ~~the~~
23 *indebtedness*, provision shall be made for the collection of an
24 annual tax sufficient to pay the interest on ~~such~~ *the* indebtedness
25 as it falls due, and to provide for a sinking fund for the payment
26 of the principal thereof, on or before ~~maturity,~~ *maturity* ~~which~~ *that*
27 shall not exceed ~~forty~~ 40 years from the time of contracting the
28 indebtedness.

29 (b) Notwithstanding subdivision (a), on or after ~~the effective~~
30 ~~date of the measure adding this subdivision,~~ *November 8, 2000*,
31 in the case of any school district, community college district, or
32 county office of education, any proposition for the incurrence of
33 indebtedness in the form of general obligation bonds for the
34 construction, reconstruction, rehabilitation, or replacement of
35 school facilities, including the furnishing and equipping of school
36 facilities, or the acquisition or lease of real property for school
37 facilities, shall be adopted upon the approval of 55 percent of the
38 voters of the district or county, as appropriate, voting on the
39 proposition at an election. This subdivision shall apply only to a
40 proposition for the incurrence of indebtedness in the form of

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1 general obligation bonds for the purposes specified in this
2 subdivision if the proposition meets all of the accountability
3 requirements of paragraph (3) of subdivision (b) of Section 1 of
4 Article XIII A.

5 *(c) Notwithstanding subdivision (a), on or after the effective*
6 *date of the measure adding this subdivision, in the case of any city,*
7 *county, or city and county, any proposition to incur indebtedness*
8 *in the form of general obligation bonds shall be adopted by 55*
9 *percent of the voters of the city, county, or city and county, as*
10 *applicable, voting on the proposition at an election, where the*
11 *general obligation bonds would fund the construction,*
12 *reconstruction, rehabilitation, or replacement of wastewater*
13 *treatment facilities and related infrastructure, potable water*
14 *producing facilities and related infrastructure, nonpotable water*
15 *producing facilities and related infrastructure, and stormwater*
16 *treatment facilities and related infrastructure.*

17 ~~(e)~~

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

O