



**2011 SEP -6 AM 11:23**  
Date: September 22, 2011

**Bill Number:** State Assembly Constitutional Amendment No. 4

**Bill Author:** Blumenthal

**DEPARTMENT INFORMATION**

**Contact:** Vitaly Troyan/ Iris Starr

**Department:** Public Works/ Infrastructure Plans and Programming

**Telephone:** 238-6229 **FAX #**

**E-mail:** [istarr@oaklandnet.com](mailto:istarr@oaklandnet.com)

**RECOMMENDED POSITION: SUPPORT**

**Summary of the Bill**

Amends the California Constitution to allow a city, county, or special district, as defined, to incur bonded indebtedness in order to fund specified public improvements and facilities, with 55% voter approval of that city, county or special district. Specifically, this bill:

Allows a city, county, or city and county, or a special district, as applicable, to incur indebtedness in the form of general obligation (GO) bonds to be adopted by 55% of the voters of the city, county, or city and county, or special district, where the GO bonds fund the construction, reconstruction, rehabilitation, or replacement of any of the following:

- a) Public improvements, including, but not limited to, improvements to transportation infrastructures, streets, highways, sewer systems, water systems, wastewater systems, and park and recreation facilities; and,
- b) Facilities or buildings used primarily to provide sheriff, police, or fire protection services to the public, including the furnishing and equipping of those facilities or buildings.

**Positive Factors for Oakland**

Critical improvements to our capital facilities, including streets, sidewalks, emergency services facilities for police and fire, and parks and recreation facilities, are needed and could be supported by a General Obligation Bond. Passage of such a Bond is more likely with a 55% threshold rather than the 2/3 vote now required. At present the known capital improvement

Item: \_\_\_\_\_

**Rules & Legislation Comte.**  
**September 22, 2011**

program identifies seriously needed upgrades including \$478 million for streets and sidewalks, \$500 million for Police and Fire facilities, and \$58 million for park and recreation facilities, and \$45 million for other City buildings. Some portion of these needs could be financed by a G.O. Bond.

### **Negative Factors for Oakland**

None.

### **PLEASE RATE THE EFFECT OF THIS MEASURE ON THE CITY OF OAKLAND:**

**Critical** (top priority for City lobbyist, city position required ASAP)

#### **Known support:**

Association for Los Angeles Deputy Sheriffs  
California Association of Recreation and Park Districts  
California Library Association  
California Narcotic Officers Association  
California Park & Recreation Society  
California Police Chiefs Association  
California Professional Firefighters  
California Special Districts Association  
California State Association of Counties  
Central Basin Municipal Water District  
City of San Jose  
City of Thousand Oaks  
East Bay Municipal Utility District  
East Bay Regional Park District  
Fire Districts Association of California  
Los Angeles County Probation Officers Union  
Mid-peninsula Regional Open Space District  
Mosquito and Vector Control Association of California  
Peace Officers Research Association of California  
Riverside Sheriffs Association  
Santa Clara Valley Water District  
State Building and Construction Trades Council

#### **Known Opposition:**

California Association of Realtors  
CalTax  
Howard Jarvis Taxpayers Association

**Attach bill text and state/federal legislative committee analysis, if available.**

Respectfully submitted,

*for Vitaly Troyan*  
\_\_\_\_\_  
Vitaly Troyan, Director  
Public Works Agency

Reviewed by: Michael Neary  
Michael Neary, Assistant Director of Design,  
Engineering, and Construction  
Public Works Agency

Prepared by: Iris Starr  
Iris Starr, Division Manager  
Infrastructure Plans and Programming  
Public Works Agency

APPROVED AND FORWARDED TO THE  
RULES COMMITTEE:

*Deanna Anderson*  
\_\_\_\_\_  
Office of the City Administrator

**Assembly Constitutional Amendment**

**No. 4**

---

Introduced by Assembly Member **Blumenfield**

December 6, 2010

---

Assembly Constitutional Amendment No. 4—A resolution to propose to the people of the State of California an amendment to the Constitution of the State, by amending Section 1 of Article XIII A thereof, and by amending Section 18 of Article XVI thereof, relating to local government financing.

LEGISLATIVE COUNSEL'S DIGEST

ACA 4, as introduced, **Blumenfield**. Local government financing: 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, as defined, to service bonded indebtedness incurred to fund specified public improvements and facilities, or buildings used primarily to provide sheriff, police, or fire protection services, that is approved by 55% of the voters of the city, county, city and county, or special district, as applicable.

(2) The California Constitution prohibits specified local government agencies from incurring any indebtedness exceeding in one 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 Constimtion 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 one year the income and revenue provided in that year, that is in the form of general obligation bonds to fund specified public improvements and facilities, or buildings used primarily to provide sheriff, police, or fire protection services.

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 2011–12 Regular  
3 Session commencing on the sixth day of December 2010,  
4 two-thirds of the membership of each house concurring, hereby  
5 proposes to the people of the State of California, that the  
6 Constitution of the State be amended as follows:

7     First—That Section 1 of Article XIII A thereof is amended to  
8 read:

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

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

- 17     (1) Indebtedness approved by the voters prior to July 1, 1978.  
18     (2) Bonded indebtedness for the acquisition or improvement of  
19 real property approved on or after July 1, 1978, by two-thirds of  
20 the votes cast by the voters voting on the proposition.  
21     (3) Bonded indebtedness incurred by a school district,  
22 community college district, or county office of education ~~for to~~  
23 *fund* the construction, reconstmction, rehabilitation, or replacement  
24 of school facilities, including the furnishing and equipping of  
25 school facilities, or the acquisition or lease of real property for

1 school facilities, approved by 55 percent of the voters of the district  
2 or county, as appropriate, voting on the proposition on or after the  
3 effective date of the measure adding this paragraph *November 8,*  
4 *2000.* This paragraph shall apply only if the proposition approved  
5 by the voters and resulting in the bonded indebtedness includes  
6 all of the following accountability requirements:

7 (A) A requirement that the proceeds from the sale of the bonds  
8 be used only for the purposes specified in ~~Article XIII A, Section~~  
9 ~~1(b)(3); this paragraph~~ and not for any other purpose, including  
10 teacher and administrator salaries and other school operating  
11 expenses.

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

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

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

26 (A) *(A) Bonded indebtedness, approved by 55 percent of the*  
27 *voters of a city, county, city and county, or special district, as*  
28 *applicable, voting on the proposition on or after the effective date*  
29 *of the measure adding this paragraph, incurred by the city, county,*  
30 *city and county, or special district to fund the construction,*  
31 *reconstruction, rehabilitation, or replacement of any of the*  
32 *following:*

33 (i) *Public improvements, including, but not limited to,*  
34 *improvements to transportation infrastructures, streets, highways,*  
35 *sewer systems, water systems, wastewater systems, and park and*  
36 *recreation facilities.*

37 (ii) *Facilities or buildings used primarily to provide sheriff,*  
38 *police, or fire protection services to the public, including the*  
39 *furnishing and equipping of those facilities or buildings.*

1 (B) "Special district," for purposes of this paragraph, has the  
2 same meaning as that term is used in subdivision (c) of Section 1  
3 of Article XIII.C, but does not include a school district or a  
4 redevelopment agency.

5 (c) Notwithstanding any other provisions of law or of this  
6 Constitution, ~~a school-districts, community-college-districts, and~~  
7 ~~county-offices-of-education district, community college district,~~  
8 ~~county office of education, city, county, city and county, or special~~  
9 ~~district~~ may levy a 55 percent vote ad valorem tax pursuant to  
10 subdivision (b).

11 Second—That Section 18 of Article XVI thereof is amended to  
12 read:

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

33 (b) Notwithstanding subdivision (a), on or after-the-effective  
34 date-of-the-measure-adding-this-subdivision, *November 8, 2000*,  
35 in the case of any school district, community college district, or  
36 county office of education, any proposition for the incurrence of  
37 indebtedness in the form of general obligation bonds for the  
38 construction, reconstruction, rehabilitation, or replacement of  
39 school facilities, including the furnishing and equipping of school  
40 facilities, or the acquisition or lease of real property for school

1 facilities, shall be adopted upon the approval of 55 percent of the  
2 voters of the district or county, as appropriate, voting on the  
3 proposition at an election. This subdivision shall apply only to a  
4 proposition for the incurrence of indebtedness in the form of  
5 general obligation bonds for the purposes specified in this  
6 subdivision if the proposition meets all of the accountability  
7 requirements of paragraph (3) of subdivision (b) of Section I of  
8 Article XIII A.

9 *(c) Notwithstanding subdivision (a), on or after the effective*  
10 *date of the measure adding this subdivision, in the case of any city,*  
11 *county, or city and county, any proposition to incur indebtedness*  
12 *in the form of general obligation bonds shall be adopted by 55*  
13 *percent of the voters of the city, county, or city and county, as*  
14 *applicable, voting on the proposition at an election, where the*  
15 *general obligation bonds would fund the construction,*  
16 *reconstruction, rehabilitation, or replacement of any of the*  
17 *following:*

18 *(1) Public improvements, including, but not limited to,*  
19 *improvements to transportation infrastructures, streets, highways,*  
20 *sewer systems, water systems, wastewater systems, and park and*  
21 *recreation facilities.*

22 *(2) Facilities or buildings used primarily to provide sheriff,*  
23 *police, or fire protection services to the public, including the*  
24 *furnishings and equipping of those facilities or buildings.*

25 *(e)*

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



BILL ANALYSIS

Date of Hearing: June 15, 2011

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT

Cameron Smyth, Chair

ACA 4 (Blumenfield) - As Introduced: December 6, 2010

SUBJECT : Local government financing: voter approval.

SUMMARY : Amends the California Constitution to allow a city, county, or special district, as defined, to incur bonded indebtedness in order to fund specified public improvements and facilities, with 55% voter approval of that city, county or special district. Specifically, this bill :

1) Allows a city, county, or city and county, or a special district, as applicable, to incur indebtedness in the form of general obligation (GO) bonds to be adopted by 55% of the voters of the city, county, or city and county, or special district, where the GO bonds fund the construction, reconstruction, rehabilitation, or replacement of any of

the following:

- a) Public improvements, including, but not limited to, improvements to transportation infrastructures, streets, highways, sewer systems, water systems, wastewater systems, and park and recreation facilities; and,
- b) Facilities or buildings used primarily to provide sheriff, police, or fire protection services to the public, including the furnishing and equipping of those facilities or buildings.

2) Lowers to 55% the voter-approval threshold for a city, county, or city and county to incur bonded indebtedness, in the form of GO bonds, that exceeds in one year the income and revenue provided in that year, for the construction, reconstruction, rehabilitation, or replacement of any of the following:

- systems,  
public,
- a) Public improvements, including, but not limited to, improvements to transportation infrastructures, streets, highways, sewer systems, water systems, wastewater and park and recreation facilities; and,
  - b) Facilities or buildings used primarily to provide sheriff, police, or fire protection services to the

2

including the furnishing and equipping of those facilities or buildings.

- the  
a
- 3) Defines "special district," for purposes of this bill, as same meaning as that term is used in the California Constitution for the section related to voter approval for local tax levies, but does not include a school district or redevelopment agency.

EXISTING LAW :

- impose a  
impose a  
or  
on  
for  
audit
- 1) Authorizes cities, counties, and special districts to general tax for general governmental purposes with the approval of a majority of the voters.
  - 2) Authorizes cities, counties, and special districts to special tax for specified purposes with the approval of two-thirds of the voters.
  - 3) Authorizes school districts, community college districts, county offices of education to incur school bonded indebtedness with the approval of 55% of the voters voting the bond measure, requires that bond proceeds only be used purposes specified in the Constitution, and requires an audit to ensure that the funds have been expended only on the specific projects listed.

incurring 4) Prohibits specified local government agencies from  
revenue any indebtedness exceeding in one year the income and  
the provided in that year, without the assent of two-thirds of  
voters.

FISCAL EFFECT : Unknown

COMMENTS :

bonded 1) Article XIII of the California Constitution allows for  
indebtedness for a school district, community college  
replacement district, or county office of education to fund the  
equipping construction, reconstruction, rehabilitation, or  
of school facilities, including the furnishing and  
by of school facilities, among other provisions, if approved  
55% of the voters. This section of the Constitution also  
purposes requires that the bond proceeds be used only for the  
listed, and requires annual independent auditing to ensure

ACA 4  
Page

3

listed. that funds have been expended on the specific projects

county, This bill mirrors these requirements in the Constitution in  
place for school districts by providing that a city,  
or specified special district can incur bonded indebtedness  
for construction, reconstruction, rehabilitation, or  
replacement of public improvements and public safety  
facilities or buildings, if 55% of the voters approve. The  
current threshold to pass general obligation bond measures  
for cities, counties and special districts is a 2/3 vote.

at 2) The author notes that it is estimated that California needs  
least an additional \$500 billion between now and 2025 for  
maintenance, repair, and upkeep of the crumbling sewer and

storm drain systems, streets and sidewalks, overcrowded and out-dated police stations, jails, fire stations and libraries.

The author argues that because the state is not meeting the infrastructure needs of our growing population, there is great need for additional financial tools to make these necessary investments. These infrastructure investments will enhance public safety, increase the value of real estate, and improve the quality of life in communities as vital facilities will be better maintained to safely serve today's population.

3) Lowering the constitutional vote threshold for special taxes and bond indebtedness has been tried several times in past years. ACA 7 (Nation) from the 2005-06 legislative session would have lowered the constitutional vote requirement from two-thirds to 55% for any special tax. ACA 10 (Feuer), 2008, would have created an additional exception to the 1% ad valorem property tax for transportation projects with 55% voter approval. There were several measures introduced in the 2009-10 session that would have revised constitutional voting thresholds for different purposes, including ACA 10 (Torlakson), ACA 15 (Arambula), SCA 12 (Kehoe), ACA 9 (Huffman) and SCA 6 (Simitian), none of which were enacted.

There are currently several bills in the 2011-12 session that would amend the California Constitution to lower the vote threshold, including ACA 18 (Swanson), and SCA 5 (Simitian).

4) This bill requires a two-thirds vote of the Legislature.

5) Support arguments: The California Professional Firefighters, in support, write that money invested in infrastructure creates an increase in tax revenue that can be used to help

core

local governments fund police, fire, schools, and other services.

in

Opposition arguments: The California Taxpayers Association, opposition, writes that creating another exception to Proposition 13's 1% limit on ad valorem property taxes sets

a

bad precedent, thereby eroding taxpayer protections.

6) This bill is double-referred to the Committee on Appropriations.

REGISTERED SUPPORT / OPPOSITION :

Support

Association for Los Angeles Deputy Sheriffs  
California Association of Recreation and Park Districts  
California Library Association  
California Narcotic Officers Association  
California Park & Recreation Society  
California Police Chiefs Association  
California Professional Firefighters  
California Special Districts Association  
California State Association of Counties  
Central Basin Municipal Water District  
Cities of San Jose and Thousand Oaks  
East Bay Municipal Utility District  
East Bay Regional Park District  
Fire Districts Association of California  
Los Angeles County Probation Officers Union  
Midpeninsula Regional Open Space District  
Mosquito and Vector Control Association of California  
Peace Officers Research Association of California  
Riverside Sheriffs Association  
Santa Clara Valley Water District  
State Building and Construction Trades Council

Opposition

California Association of Realtors  
CalTax  
Howard Jarvis Taxpayers Association

Analysis Prepared by : Debbie Michel / L. GOV. / (916)  
319-3958

FILED  
OFFICE OF THE CITY CLERK  
OAKLAND

# OAKLAND CITY COUNCIL

2011 SEP -6 AM 11:24  
RESOLUTION No. \_\_\_\_\_ C.M.S.  
Introduced by Councilmember \_\_\_\_\_

  
City Attorney

**RESOLUTION DECLARING SUPPORT OF PROPOSED STATE ASSEMBLY CONSTITUTIONAL AMENDMENT NO. 4, WHICH ALLOWS A CITY TO INCUR INDEBTEDNESS IN THE FORM OF GENERAL OBLIGATION (G.O.) BONDS TO BE ADOPTED BY 55% OF THE VOTERS OF THE CITY, WHERE THE G.O. BONDS FUND THE CONSTRUCTION, RECONSTRUCTION, REHABILITATION, OR REPLACEMENT OF SPECIFIED PUBLIC INFRASTRUCTURE, FACILITY, AND BUILDING IMPROVEMENTS**

**WHEREAS**, 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; and

**WHEREAS**, State Assembly Constitutional Amendment No. 4 amends the California Constitution to allow a city, county, or special district, as defined, to incur bonded indebtedness in order to fund specified public improvements and facilities, with 55% voter approval of that city, county or special district; and

**WHEREAS**, this bill allows a city, county, or city and county, or a special district to incur indebtedness in the form of general obligation (G.O.) bonds to be adopted by 55% of the voters of the city, county, or city and county, or special district, where the G.O. bonds fund the construction, reconstruction, rehabilitation, or replacement of any of the following: i) Public improvements, including, but not limited to, improvements to transportation infrastructures, streets, highways, sewer systems, water systems, wastewater systems, and park and recreation facilities; and, ii) Facilities or buildings used primarily to provide sheriff, police, or fire protection services to the public, including the furnishing and equipping of those facilities or buildings; and

**WHEREAS**, at present the known capital improvement program need for the City of Oakland identifies seriously required upgrades including \$478 million for streets and sidewalks, \$500 million for Police and Fire facilities, \$58 million for park and recreation facilities, and \$45 million for other City buildings (such as City Hall), and that some portion of these upgrades could be financed by a GO Bond; and

**WHEREAS**, this legislative action, should it be approved by the State of California, will be of benefit in allowing Oakland voters to improve infrastructure, facilities, and building construction essential to the public health and welfare of the City by a vote of 55%, rather than 2/3's vote; now, therefore be it

**RESOLVED**, that the City Council of the City of Oakland adopts this resolution of support for State Assembly Constitutional Amendment No. 4 as specified and referenced herein.



IN COUNCIL, OAKLAND, CALIFORNIA, \_\_\_\_\_, 20\_\_\_\_\_

PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, BRUNNER, DE LA FUENTE, KAPLAN, KERNIGHAN, NADEL, SCHAAF and PRESIDENT REID

NOES -

ABSENT -

ABSTENTION -

ATTEST: \_\_\_\_\_  
LaTonda Simmons  
City Clerk and Clerk of the Council  
of the City of Oakland, California