

THOMAS W. HILTACHK

455 Capitol Mall, Suite 801
Sacramento, California 95814
(916) 442-7757

November 20, 2009

Initiative Coordinator
Office of the Attorney General
State of California
PO Box 994255
Sacramento, CA 94244-25550

09-0091
RECEIVED

NOV 23 2009

INITIATIVE COORDINATOR
ATTORNEY GENERAL'S OFFICE

Re: Request for Title and Summary for Proposed Initiative
Government Spending Limit Act of 2010 [V-2]

Dear Ms. Paris:

Pursuant to Article II, Section 10(d) of the California Constitution, I am submitting the attached proposed statewide ballot measure ("Government Spending Limit Act of 2010 [V-2]") your office and request that you prepare a title and summary of the measure as provided by law. I have also included with this letter the required signed statement pursuant to California Elections Code section 9608, and a check in the amount of \$200. My address as registered to vote is shown on Attachment 'A' to this letter.

Should you have any questions or require additional information, please contact me at 455 Capitol Mall, Suite 801, Sacramento, CA 95814 or (916) 442-7757. Thank you.

Very truly yours,

Thomas W. Hiltachk

INITIATIVE MEASURE TO BE SUBMITTED TO VOTERS

SECTION 1. STATEMENT OF FINDINGS

- A. Government spending is out of control.
- B. The failure of state government to control the growth of spending has increased the pressure to increase fees and taxes on the citizens of our state.
- C. In 1979, the voters enacted an effective spending limit. In 1988, the voters enacted a sensible minimum funding guarantee for public schools.
- D. But over time, the Legislature and special interests seriously weakened the spending limit and changed the minimum funding guarantee.
- E. Since then, a massive increase in state debt has worked to undermine the spending limit, creating a perverse incentive to raise fees and taxes.
- F. It is time for the tax-payers to take control over the tax-spenders.

SECTION 2. STATEMENT OF PURPOSE

- A. The people hereby enact the "Government Spending Limit Act of 2010" to impose reasonable limitations on government spending by:
 - (1) Reinstating a real spending limit based on the former "Gann Spending Limit" enacted by the voters in 1979;
 - (2) Requiring any excess state revenue to be used for debt reduction, a prudent state reserve, public education, or refunded to taxpayers; and
 - (3) Return to a sensible minimum funding guarantee for public schools.

Sections 1, 2, 4, 5.5, 8, 9, and 10.5 of Article XIIIB are hereby amended to read:

Sec. 1(a) The total annual appropriations subject to limitation of the state and of each local government shall not exceed the total annual appropriations limit of the entity of government for the prior year adjusted for the change in the cost of living and the change in population, except as otherwise provided in this article.

(b) From the total annual appropriations subject to limitation of the state, and excluding allocated local proceeds of taxes and federal funds, there shall be a minimum funding guarantee for the public school system (K-12) equal to forty percent (40%) of all General Fund appropriations, except that:

- (1) The minimum funding guarantee may be suspended for a period of one year by a bill passed in each house by rollcall vote entered in the journal, two-thirds of the membership concurring.
- (2) The minimum funding guarantee shall be adjusted by the Legislature when the difference between the percentage change in population for the state and the percentage change in population for all school districts is more or less than ten percent (10%).

Sec. 2 (a) All revenues received by the state in a fiscal year and in the fiscal year immediately following it in excess of the amount which may be appropriated by the state in compliance with this article during that fiscal year and the fiscal year immediately following it shall be appropriated for the reduction of state debt. If the total amount of debt service in that fiscal year and the fiscal year immediately following it is less than six percent (6%) of the annual appropriations subject to limitation of the state, the Legislature may appropriate such excess revenue for the further reduction of state debt, or as follows:

- (1) Transferred and allocated to public education, from a fund established for that purpose, pursuant to section 8.5 of Article XVI. Notwithstanding section 8 or 8.5 of Article XVI, such funds shall only supplement the funding guarantee for schools, not change the minimum funding formula or the maintenance factor;
- (2) Transferred to the prudent state reserve fund required by section 5.5. Transfers of excess revenue under this provision shall not constitute an appropriation subject to limitation, notwithstanding section 5; or
- (3) Refunded to the taxpayers by a tax credit, rebate, or reduction of tax rates or fees within the next two subsequent fiscal years.

~~(1) Fifty percent of all revenues received by the state in a fiscal year and in the fiscal year immediately following it in excess of the amount which may be appropriated by the state in compliance with this article during that fiscal year and the fiscal year immediately following it shall be transferred and allocated, from a fund established for that purpose, pursuant to Section 8.5 of Article XVI. (2) Fifty percent of all revenues received by the state in a fiscal year and in the fiscal year immediately following it in excess of the amount which may be appropriated by the state in compliance with this article during that fiscal year and the fiscal year immediately following it shall be returned by a revision of tax rates or fee schedules within the next two subsequent fiscal years~~

~~(b) All revenues received by an entity of government, other than the state, in a fiscal year and in the fiscal year immediately following it in excess of the amount which may be appropriated by the entity in compliance with this article during that fiscal year and the fiscal year immediately following it shall be returned by a tax credit, reduction of tax rates or reduction in fees revision of tax rates or fee schedules within the next two subsequent fiscal years.~~

Sec. 4. The appropriations limit imposed on any new or existing entity of government by this Article may be established or changed by the electors of such entity of government, subject to and in conformity with constitutional and statutory voting requirements. The duration of any such change shall be as determined by said electors, but shall in no event exceed four years from the most recent vote of said electors creating or continuing such change.

Sec. 5.5. The Legislature shall establish a prudent state reserve fund in such amount as it shall deem reasonable and necessary. Contributions to, ~~and withdrawals from,~~ the fund shall be

subject to the provisions of Section 5 of this Article, except as provided by subsection (a)(2) of Section 2 of this Article. Withdrawals or appropriations from the fund shall constitute appropriations subject to limitation as provided for in this Article, except as provided in subsection (c)(2) of Section 3 of this Article.

Sec. 8. As used in this article and except as otherwise expressly provided herein:

(a) "Appropriations subject to limitation" of the state means any authorization to expend during a fiscal year the proceeds of taxes levied by or for the state, exclusive of state subventions for the use and operation of local government (other than subventions made pursuant to Section 6 and further exclusive of refunds of taxes, benefit payments from retirement, unemployment insurance, and disability insurance funds.

(b) "Appropriations subject to limitation" of an entity of local government means any authorization to expend during a fiscal year the proceeds of taxes levied by or for that entity and the proceeds of state subventions to that entity (other than subventions made pursuant to Section 6) exclusive of refunds of taxes.

(c) "Proceeds of taxes" shall include, but not be restricted to, all tax revenues and the proceeds to an entity of government, from (1) regulatory licenses, user charges, and user fees to the extent that those proceeds exceed the costs reasonably borne by that entity in providing the regulation, product, or service, and (2) the investment of tax revenues. With respect to any local government, "proceeds of taxes" shall include subventions received from the state, other than pursuant to Section 6 of this Article, and with respect to the state, proceeds of taxes shall exclude such subventions.

(d) "Local government" means any city, county, city and county, charter city, charter county, charter city and county, school district, special district, authority, or other political subdivision of or within the state.

(e)(1) "Change in the cost of living" for the State or school district means the Consumer Price Index for the United States as reported by the United States Department of Labor, or successor agency of the United States Government; provided, however, that for purposes of Section 1, the change in the cost of living from the preceding year shall in no event exceed the change in the California per capita personal income from said preceding year. school district, or a community college district means the percentage change in California per capita personal income from the preceding year.

(2) "Change in the cost of living" for an entity of local government, other than a school district or a community college district, shall be either (A) the percentage change in California per capita personal income from the preceding year, or (B) the percentage change in the local assessment roll from the preceding year for the jurisdiction due to the addition of local nonresidential new construction. Each entity of local government shall select its change in the cost of living pursuant to this paragraph annually by a recorded vote of the entity's governing body.

(f)(1) “Change in population” of any entity of government, other than the state, a school district, or a community college district, shall be determined by a method prescribed by the Legislature, provided that such determination shall be revised, as necessary, to reflect the periodic census conducted by the United States Department of Commerce, or successor agency of the United States Government.

(2) “Change in population” of a school district or a community college district shall be the percentage change in the average daily attendance of the school district or community college district from the preceding fiscal year, as determined by a method prescribed by the Legislature.

~~“Change in population” of the state shall be determined by adding (1) the percentage change in the state's population multiplied by the percentage of the state's budget in the prior fiscal year that is expended for other than educational purposes for kindergarten and grades one to 12, inclusive, and the community colleges, and (2) the percentage change in the total statewide average daily attendance in kindergarten and grades one to 12, inclusive, and the community colleges, multiplied by the percentage of the state's budget in the prior fiscal year that is expended for educational purposes for kindergarten and grades one to 12, inclusive, and the community colleges.~~

~~Any determination of population pursuant to this subdivision, other than that measured by average daily attendance, shall be revised, as necessary, to reflect the periodic census conducted by the United States Department of Commerce, or successor department.~~

(g) “Debt service” means appropriations required to pay the cost of interest and redemption charges, including the funding of any reserve or sinking fund required in connection therewith, on indebtedness existing or legally authorized as of January 1, 1979 or on bonded indebtedness thereafter approved according to law by a vote of the electors of the issuing entity voting in an election for that purpose.

(h) The “appropriations limit” of each entity of government for each fiscal year is that amount which total annual appropriations subject to limitation may not exceed under Sections 1 and 3. However, the “appropriations limit” of each entity of government for fiscal year 1978-79 is the total of the appropriations subject to limitation of the entity for that fiscal year. For fiscal year 1978-79, state subventions to local governments, exclusive of federal grants, are deemed to have been derived from the proceeds of state taxes.

(i) Except as otherwise provided in Section 5, “appropriations subject to limitation” do not include local agency loan funds or indebtedness funds, investment (or authorizations to invest) funds of the state, or of an entity of local government in accounts at banks or savings and loan associations or in liquid securities.

(j) “State debt” means the total amount of outstanding general obligation bonds or other bonded indebtedness of the state, including interest and redemption charges, and authorized, but unissued, general obligation bonds or other bonded indebtedness of the state, including interest and redemption charges.

Sec. 9. "Appropriations subject to limitation" for each entity of government do not include:

(a) Appropriations for debt service.

(b) Appropriations required to comply with mandates of the courts or the federal government which, without discretion, require an expenditure for additional services or which unavoidably make the provision of existing services more costly.

(c) Appropriations of any special district which existed on January 1, 1978, and which did not as of the 1977-78 fiscal year levy an ad valorem tax on property in excess of 12 1/2 cents per \$100 of assessed value; or the appropriations of any special district then existing or thereafter created by a vote of the people, which is totally funded by other than the proceeds of taxes.

~~(d) Appropriations from bond funds approved by the voters pursuant to this Article or Article II. Appropriations for all qualified capital outlay projects, as defined by the Legislature.~~

~~(e) Appropriations of revenue which are derived from any of the following:~~

~~(1) That portion of the taxes imposed on motor vehicle fuels for use in motor vehicles upon public streets and highways at a rate of more than nine cents (\$0.09) per gallon.~~

~~(2) Sales and use taxes collected on that increment of the tax specified in paragraph (1).~~

~~(3) That portion of the weight fee imposed on commercial vehicles which exceeds the weight fee imposed on those vehicles on January 1, 1990.~~

Sec. 10.5. For fiscal years beginning on or after ~~July 1, 1990~~ July 1, 2011, the appropriations limit for the state shall be the total amount of appropriations from proceeds of taxes in fiscal year 2009-10 adjusted for changes in population and change in cost of living from that fiscal year pursuant to this Article. The ~~the~~ appropriations limit of each entity of government, other than the state, shall be the appropriations limit for the 1986-87 fiscal year adjusted for the changes made from that fiscal year pursuant to this article, as amended by the measure adding this section, adjusted for the changes required by Section 3.

Section 8 of Article XVI is hereby amended to read:

Sec. 8. (a) From all state revenues there shall first be set apart the moneys to be applied by the state for support of the public school system and public institutions of higher education.

(b) Commencing with the ~~2010-11 1990-91~~ fiscal year, the moneys to be applied by the state for the support of school districts ~~and community college districts~~ shall be not less than the amount required pursuant to section 1(b) of Article XIII.B. ~~the greater of the following amounts:~~

(1) The amount which, as a percentage of General Fund revenues which may be appropriated pursuant to Article XIII B, equals the percentage of General Fund revenues appropriated for school districts and community college districts, respectively, in fiscal year 1986-87.

(2) The amount required to ensure that the total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIII B and allocated local proceeds of taxes shall not be less than the total amount from these sources in the prior fiscal year, excluding any revenues allocated pursuant to subdivision (a) of Section 8.5, adjusted for changes in enrollment and adjusted for the change in the cost of living pursuant to paragraph (1) of subdivision (e) of Section 8 of Article XIII B. This paragraph shall be operative only in a fiscal year in which the percentage growth in California per capita personal income is less than or equal to the percentage growth in per capita General Fund revenues plus one half of one percent.

(3)(A) The amount required to ensure that the total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIII B and allocated local proceeds of taxes shall equal the total amount from these sources in the prior fiscal year, excluding any revenues allocated pursuant to subdivision (a) of Section 8.5, adjusted for changes in enrollment and adjusted for the change in per capita General Fund revenues.

(B) In addition, an amount equal to one half of one percent times the prior year total allocations to school districts and community colleges from General Fund proceeds of taxes appropriated pursuant to Article XIII B and allocated local proceeds of taxes, excluding any revenues allocated pursuant to subdivision (a) of Section 8.5, adjusted for changes in enrollment.

(C) This paragraph (3) shall be operative only in a fiscal year in which the percentage growth in California per capita personal income in a fiscal year is greater than the percentage growth in per capita General Fund revenues plus one half of one percent.

(c) In any fiscal year, if the amount computed pursuant to paragraph (1) of subdivision (b) exceeds the amount computed pursuant to paragraph (2) of subdivision (b) by a difference that exceeds one and one half percent of General Fund revenues, the amount in excess of one and one half percent of General Fund revenues shall not be considered allocations to school districts and community colleges for purposes of computing the amount of state aid pursuant to paragraph (2) or (3) of subdivision (b) in the subsequent fiscal year.

(d) In any fiscal year in which school districts and community college districts are allocated funding pursuant to paragraph (3) of subdivision (b) or pursuant to subdivision (h), they shall be entitled to a maintenance factor, equal to the difference between (1) the amount of General Fund moneys which would have been appropriated pursuant to paragraph (2) of subdivision (b) if that paragraph had been operative or the amount of General Fund moneys which would have been appropriated pursuant to subdivision (b) had subdivision (b) not been suspended, and (2) the amount of General Fund moneys actually appropriated to school districts and community college districts in that fiscal year.

~~(e) The maintenance factor for school districts and community college districts determined pursuant to subdivision (d) shall be adjusted annually for changes in enrollment, and adjusted for the change in the cost of living pursuant to paragraph (1) of subdivision (e) of Section 8 of Article XIII B, until it has been allocated in full. The maintenance factor shall be allocated in a manner determined by the Legislature in each fiscal year in which the percentage growth in per capita General Fund revenues exceeds the percentage growth in California per capita personal income. The maintenance factor shall be reduced each year by the amount allocated by the Legislature in that fiscal year. The minimum maintenance factor amount to be allocated in a fiscal year shall be equal to the product of General Fund revenues from proceeds of taxes and one half of the difference between the percentage growth in per capita General Fund revenues from proceeds of taxes and in California per capita personal income, not to exceed the total dollar amount of the maintenance factor.~~

~~(f) For purposes of this section, "changes in enrollment" shall be measured by the percentage change in average daily attendance. However, in any fiscal year, there shall be no adjustment for decreases in enrollment between the prior fiscal year and the current fiscal year unless there have been decreases in enrollment between the second prior fiscal year and the prior fiscal year and between the third prior fiscal year and the second prior fiscal year.~~

~~(g) Subparagraph (B) of paragraph (3) of subdivision (b) may be suspended for one year only when made part of or included within any bill enacted pursuant to Section 12 of Article IV. All other provisions of subdivision (b) may be suspended for one year by the enactment of an urgency statute pursuant to Section 8 of Article IV, provided that the urgency statute may not be made part of or included within any bill enacted pursuant to Section 12 of Article IV.~~

SECTION 4. GENERAL PROVISIONS

- A. If any provision of this measure, or part thereof, is for any reason held to be invalid or unconstitutional, 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.
- B. This measure is intended to be comprehensive. If this measure and another measure or measures relating to the same subject appear on the same statewide ballot, the other measure or measures shall be deemed to be in conflict with this measure. If this measure receives a greater number of affirmative votes, the provisions of this measure shall prevail in their entirety, and all provisions of the other measure or measures shall be null and void.