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December 9, 2011

INITIATIVE COORDINATOR
ATTORNEY GENERAL'S OFFICE

VIA PERSONAL DELIVERY

The Honorable Kamala D. Harris
Attorney General
1300 I Street, 17th Floor
Sacramento, CA 95814

Attention: Dawn McFarland, Initiative Coordinator

Re: Request to Make Amendments to Initiative No. 11-0092

Dear Ms. Harris:

Attached are certain amendments to Initiative No. 11-0092, which was originally filed with your office on December 6, 2011. These amendments are described on the following page of this letter, and have been incorporated into the attached draft of Initiative No. 11-0092, the "Government Spending Limit Act of 2012."

The proponents respectfully request that a title and summary be prepared for Initiative No. 11-0092 using this amended language.

All inquiries or correspondence relative to this initiative should be directed to Nielsen Merksamer Parrinello Gross & Leoni LLP, 2350 Kerner Blvd., Suite 250, San Rafael, CA 94901, (415) 389-6800, Attention: Steven S. Lucas.

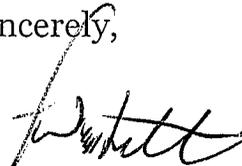
Thank you for your assistance.

Sincerely,



Steven S. Lucas, Proponent

Sincerely,



Thomas W. Hiltachk, Proponent

Enclosure: Proposed Initiative Constitutional Amendment

1. Pg. 4, Sec. 6 [Cal. Const., art. XIII B, § 1.9(a)]

In Section 1.9(a), the phrase “total annual appropriations limit of the State for that fiscal year” has been changed to ‘*amount which may be appropriated by the State in compliance with this article*’

2. Pg. 4, Sec. 6 [Cal. Const., art. XIII B, § 1.9(b)]

In Section 1.9(b), the phrase “total annual appropriations limit of that entity of local government for that fiscal year” has been changed to ‘*amount which may be appropriated by that entity of local government in compliance with this article*’

3. Pg. 4, Sec. 7 [Cal. Const., art. XIII B, § 2(a)]

In Section 2(a), the phrase “total annual appropriations limit of the State for that fiscal year” has been changed to ‘*amount which may be appropriated by the State in compliance with this article*’

4. Pg. 5, Sec. 7 [Cal. Const., art. XIII B, § 2(b)]

In Section 2(b), the phrase “total annual appropriations limit of the State for that fiscal year” has been changed to ‘*amount which may be appropriated by the State in compliance with this article*’

5. Pg. 5, Sec. 7 [Cal. Const., art. XIII B, § 2(c)]

In Section 2(c), the phrase “total annual appropriations limit of that entity of local government” has been changed to ‘*amount which may be appropriated by that entity of local government in compliance with this article*’

6. Pg. 6, Sec. 8 [Cal. Const., art. XIII B, § 8(c)(1)]

In the first sentence of Section 8(c)(1), the opening phrase “Proceeds of taxes levied by or for the State” has been changed to ‘*With respect to the State, “proceeds of taxes”*’. In the second sentence of Section 8(c)(1), the opening phrase “Proceeds of taxes levied by or for the State” has been changed to ‘*“Proceeds of taxes”*’

7. Pg. 6, Sec. 8 [Cal. Const., art. XIII B, § 8(c)(2)]

In Section 8(c)(2), the opening phrase “~~With respect to any local government, “Proceeds proceeds~~ of taxes levied by or for an entity of local government”” has been changed to ‘*With respect to any entity of local government, “proceeds of taxes”*’

8. Pg. 10, Sec. 11 [Cal. Const., art. XIII B, § 10.5(a)]

In section 10.5(a), the phrase “appropriations from proceeds of taxes” has been changed to ‘*appropriations subject to limitation*’

[Sections 4 through 12: added text in underline; deleted text in ~~strikeout~~.]

SECTION 1. Title.

This Act shall be known, and may be cited as, the “Government Spending Limit Act of 2012.”

SECTION 2. Statement of Purpose.

The purpose of this Constitutional Amendment is to force California politicians to balance the budget by spending only what the state can afford. It will repair California’s broken budget system by rejecting the failed pattern of wasteful government spending, enormous deficits and debt, and higher taxes in favor of a reasonable spending limit that will force state and local politicians to live within their means, balance the budget, pay down our debt, and control spending without wasting additional taxpayer dollars. By doing this, we will help create jobs and foster a healthy economy.

SECTION 3. Findings and Declarations.

The People of the State of California find and declare the following:

(a) California politicians waste too much of our tax money. They don’t prioritize programs or cut waste. Instead, they threaten massive tax hikes or cuts to critical programs like law enforcement and schools, but they never seriously work to clean up the waste and inefficiencies in government. This measure allows voters to take control of government spending and forces the politicians to prioritize programs and clean up the waste and abuses before they ask us to pay more of our hard-earned dollars in new and higher taxes.

(b) More spending, debt, and higher taxes are not the answer to California’s budget problems. In the ten years between 2000-01 and 2010-11, total state spending increased by over \$39 billion. In 2009, our state Legislature imposed one of the largest tax increases ever enacted by any state in American history—over \$12 billion.

(c) However, in spite of these eye-popping tax and spending increases, California government continues to fail the people. The politicians still cannot balance our state and local budgets—in good or bad economic times. Instead, they use gimmicks

and borrowing to claim budgets are balanced when they know they are not. In fact, as much as 85 percent of the Legislature's short-term budget "fixes" are never achieved—leaving California taxpayers deeply in debt and the budget unbalanced year after year. This has resulted in billions more in deficits and long-term debt that our children and grandchildren will have to pay back. Currently, California's debt is already estimated in excess of \$200 billion, including billions for excessive pensions.

(d) All of these additional taxes, spending, and debt did not improve the lives of everyday Californians. Today, our roads are crumbling, our schools are failing, and our public universities are becoming unaffordable. Our water system is broken, our prisons are overflowing, and we have fewer police officers patrolling our streets.

(e) As the past ten years have proven, no amount of increased taxes and spending will ever fix the problem because the special interests who control our state and their politician friends will simply divert any extra taxpayer dollars to their own benefit, like unsustainable and overly generous public employee pensions. California does not have a revenue problem, it has a spending problem. The politicians no longer represent the taxpayers—only the special interests who demand higher spending and taxes with no accountability and no assurances the money isn't wasted.

(f) Since the politicians can no longer be trusted to spend taxpayer money wisely, it is time for Californians to once again take back control of their government and limit what the politicians can spend. In 1979, voters enacted a reasonable spending limit, but over time the Legislature and special interests have demolished that limit originally approved by the voters.

(g) A crucial component of controlling government spending is to also control government's ability to extract additional revenues from taxpayers. In 1978, voters enacted a reasonable rule that no tax could be imposed by the Legislature without a two-thirds vote. Despite that clear and unambiguous standard, the Legislature and the special interests have attempted to undermine the two-thirds vote for taxes by suggesting that it may be possible for the Legislature to raise taxes on a simple majority vote in some situations. Here, the voters again reaffirm the two-thirds vote rule for taxes and declare

that all taxes, however constructed or conceived, may only be authorized, adopted, or increased by the Legislature through a two-thirds vote of each house.

(h) The only effective way to control government spending, end waste, pay off our debt, and protect taxpayers is to impose a reasonable spending limit that will force California politicians to once again live within our means and check the explosive and ineffective growth of government spending once-and-for-all.

SECTION 4. Section 1 of Article XIII B of the California Constitution is 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 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) The total annual appropriations subject to limitation of each entity of local government shall not exceed the appropriations limit 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.

(c) Any person shall have standing to challenge a violation of this article and enforce its compliance. In such a legal action, the government bears the burden of proving its compliance with this article by a preponderance of the evidence.

SECTION 5. Section 1.5 of Article XIII B of the California Constitution is amended, to read:

SEC. 1.5. The annual calculation of the appropriations limit under this article for the State shall be reviewed as part of an annual financial audit conducted by the Controller. The annual calculation of the appropriations limit under this article for each entity of local government shall be reviewed as part of an annual financial audit.

SECTION 6. Section 1.9 is added to Article XIII B of the California Constitution, to read:

SEC. 1.9. (a) If, in any fiscal year, the total amount of all proceeds of taxes received by the State exceeds the amount which may be appropriated by the State in compliance with this article and the total amount of debt service of the State in that fiscal year is five percent (5%) or more of the appropriations limit, such excess revenue shall be appropriated in the subsequent fiscal year for the reduction of debt.

(b) If, in any fiscal year, the total amount of all proceeds of taxes received by an entity of local government exceeds the amount which may be appropriated by that entity of local government in compliance with this article and the total amount of debt service of that entity of local government in that fiscal year is five percent (5%) or more of the appropriations limit, such excess revenue shall be appropriated in the subsequent fiscal year for the reduction of debt.

SECTION 7. Section 2 of Article XIII B of the California Constitution is amended, to read:

SEC. 2. (a) If, in any fiscal year, the total amount of all proceeds of taxes received by the State exceeds the amount which may be appropriated by the State in compliance with this article by less than two billion dollars and the total amount of debt service of the State in that fiscal year is less than five percent (5%) of the appropriations limit, the excess revenue shall be appropriated as follows:

(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. Notwithstanding Article XVI, revenues transferred and allocated pursuant to this paragraph shall only supplement the funding guarantee for schools, and shall not change the minimum funding formula or the maintenance factor.

(2) Fifty percent shall be transferred to the prudent state reserve fund required by Section 5.5. Notwithstanding Section 5 and Section 5.5, revenues transferred pursuant to this paragraph shall not constitute an appropriation subject to limitation. 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) If, in any fiscal year, the total amount of all proceeds of taxes received by the State exceeds the amount which may be appropriated by the State in compliance with this article by two billion dollars or more and the total amount of debt service of the State in that fiscal year is less than five percent (5%) of the appropriations limit, the excess revenue shall be refunded to the taxpayers by a reduction of tax rates or fees within the next two subsequent fiscal years.

(c) If, in any fiscal year, the total amount of all proceeds of taxes All revenues received by an entity of local 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 exceeds the amount which may be appropriated by that entity of local government in compliance with this article and the total amount of debt service of that entity of local government in that fiscal year is less than five percent (5%) of the appropriations limit, the excess revenue shall be returned to the taxpayers by a reduction ~~revision~~ of tax rates or ~~fees~~ fee schedules within the next two subsequent fiscal years.

SECTION 8. Section 8 of Article XIII B of the California Constitution is amended, to read:

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 an ~~that~~ entity of local government and the proceeds of state subventions to that entity (other than subventions made pursuant to Section 6) exclusive of refunds of taxes.

(c) (1) With respect to the State, "proceeds ~~Proceeds~~ of taxes" shall include, but not be restricted to, all tax revenues and the proceeds to the State ~~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 the State ~~that entity~~ in providing the regulation, product, or service, and (2) the investment of such tax revenues and proceeds. "Proceeds of taxes" shall not include subventions to local governments (other than subventions made pursuant to Section 6).

(2) With respect to any entity of local government, "proceeds of taxes" shall include, but not be restricted to, all tax revenues and the proceeds to an entity of local government from regulatory licenses, user charges, and user fees to the extent that those proceeds exceed the costs reasonably borne by the entity of local government in providing the regulation, product, or service, subventions received from the State, other than pursuant to Section 6, and, the investment of such revenues, proceeds, and subventions. ~~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, community college district, special district, authority, or any other political subdivision of or within the State.

(e) (1) "Change in the cost of living" for the State, a 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 local government, other than a school district or a community college district ~~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 department 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.

(3) "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~~ paragraph, 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 local government and of the State 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) "Debt" means the total amount of outstanding general obligation bonds or other bonded indebtedness of the State or an entity of local government, including interest and redemption charges, approved according to law by a vote of the electors of the issuing entity.

SECTION 9. Section 9 of Article XIII B of the California Constitution is amended, to read:

SEC. 9. "Appropriations subject to limitation" for each entity of local government and for the State 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 12½ 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 for all qualified capital outlay projects, ~~as defined by the Legislature.~~ As used in this subdivision, an appropriation for a "qualified capital outlay project" means an appropriation for a fixed asset (including land and construction) with a useful life of ten or more years and a value which equals or exceeds one hundred thousand dollars (\$100,000).

(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.

SECTION 10. Section 9.5 is added to Article XIII B of the California Constitution, to read:

SEC. 9.5. No statute enacted either pursuant to Article IV or Section 8 of Article II may (1) exempt or have the effect of exempting any appropriation from the appropriations limit of the State or an entity of local government, or (2) exempt or have the effect of exempting any proceeds of taxes from this article.

SECTION 11. Section 10.5 of Article XIII B of the California Constitution is amended, to read:

SEC. 10.5. (a) For fiscal years beginning on or after July 1, 1990 2013, the appropriations limit for the State shall be the total amount of appropriations subject to limitation in fiscal year 2010-11 adjusted for changes in population and changes in the cost of living from that fiscal year pursuant to this article.

(b) The appropriations limit of each entity of local government 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 12. Section 23 is added to Article IV of the California Constitution, to read:

SEC. 23. (a) Notwithstanding any other provision of this Constitution or any other law, any change in state statute must be enacted by an act passed by not less than two-thirds of all members elected to each of the two houses of the Legislature if the change in state statute would do any of the following:

(1) Impose a new or higher tax on any taxpayer;

(2) Authorize or enable imposition of a new or higher tax on any taxpayer by the State; or

(3) Authorize or enable imposition of a new or higher tax on any taxpayer by any political subdivision of the State.

(b) As used in this section:

(1) "Change in state statute" includes, but is not limited to, all of the following:

(A) Bills passed by the Legislature;

(B) An addition to, or amendment or repeal of, an initiative statute that only becomes effective when approved by the electors;

(C) An addition, amendment, or repeal of statutory “in-lieu” provisions or findings of statewide concern; and

(D) Any and every other possible type of modification to state law, whether by addition, amendment, repeal, that is not identified in subparagraphs (A) through (C).

(2) “Tax” shall be defined by either subdivision (b) of Section 3 of Article XIII A or subdivision (e) of Section 1 of Article XIII C.

(3) “Political subdivision” includes any “local government” and any “special district” as those terms are defined in Section 1 of Article XIII C.

(c) To the extent that any other provision of this Constitution could be read, whether expressly or impliedly, as allowing the Legislature to enact any change in state statute that does any of the things identified in paragraphs (1) through (3) of subdivision (a) without being enacted by an act passed by not less than two-thirds of all members elected to each of the two houses of the Legislature, this section shall be completely controlling.

(d) Any change in state statute enacted by the Legislature between December 1, 2011 and the effective date of this section, that would have been prohibited if this section were in effect on the date the change in state statute was enacted, is hereby repealed as of the date of its enactment, although the change in state statute may be reenacted by the Legislature and signed into law by the Governor in compliance with the requirements of this section.

(e) Notwithstanding Section 32 of Article XIII, any person shall have standing to challenge a violation of this section and enforce its compliance. In such a legal action, the government bears the burden of proving its compliance with this section by a preponderance of the evidence.

SECTION 13. Liberal Construction.

This Act shall be liberally construed to promote its objectives to the fullest extent possible. If this Act is found to be inconsistent with any other provision of the California Constitution, whether expressly or impliedly, this Act shall be controlling.

SECTION 14. Conflicting Measures.

In the event that this measure and another measure or measures relating to a limitation on state or local government spending, or to state or local government vote requirements for the enactment of taxes or other levies, charges, or exactions of any kind shall appear on the same statewide election ballot, the provisions of the other measure or measures shall be deemed to be in conflict with this measure. In the event that this measure shall receive a greater number of votes, the provisions of the other measure or measures shall be null and void.

SECTION 15. Applicability.

The proceeds of any taxes adopted on the same statewide election ballot as this Act shall be subject to Article XIII B, as amended by this Act.

SECTION 16. Severability.

If any section, subsection, subdivision, paragraph, sentence, clause, phrase, or word of this Act is for any reason held to be invalid by a decision of any court of competent jurisdiction, that decision will not affect the validity of the remaining portions of the Act. The People of California hereby declare that they would have passed this Act and each and every section, subsection, subdivision, paragraph, sentence, clause, phrase, and word not declared invalid or unconstitutional without regard to whether any portion of this Act would be subsequently declared invalid.