

# REPORT OF THE CHIEF LEGISLATIVE ANALYST

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DATE: June 23, 2015

TO: Honorable Members of the Rules, Elections, and Intergovernmental Relations Committee

FROM: Sharon M. Tso *Sharon M. Tso*  
Chief Legislative Analyst

Council File No.: 15-0002-S64  
Assignment No.: 15-06-0485

SUBJECT: Local Transportation Special Taxes

CLARECOMMENDATION: Adopt the attached Resolution (Koretz-Bonin) to include in the City's 2015-16 State Legislative Program SUPPORT for Assembly Constitutional Amendment (ACA) 4 (Frazier) that would reduce the voter threshold for passage of local sales taxes dedicated to transportation purposes.

## SUMMARY

Existing law authorizes cities, counties, and special districts to impose a special tax for specified purposes with the approval of two-thirds of the voters. On February 27, 2015, Assembly Member Frazier introduced ACA 4 that would:

- Provide that the imposition, extension, or increase of a special tax by a local government for the purpose of providing funding for local transportation projects under its jurisdiction requires the approval of 55% of the voters.
- State that a special transportation tax is not deemed to have been increased if it is imposed by a simple majority when the original tax was imposed by a 2/3 vote.
- Define "local transportation projects" to mean the planning, design, development, financing, construction, reconstruction, rehabilitation, improvement, acquisition, lease, operation, or maintenance of local streets, roads, and highways, state highways and freeways, and public transit systems.

If enacted, ACA 4 could benefit counties that would like to generate funding for transportation improvements, as well as existing counties whose existing special transportation tax is due to expire. In Los Angeles County, three transportation sales tax measures have been approved by voters:

- Proposition A sales tax, approved in 1980, is a one-half percent tax on most retail sales with no expiration date.
- The Proposition C sales tax, in 1990, is an additional one-half percent tax on retail sales with no expiration date.
- Measure R, approved in 2008 by 2/3 of the voters, is an additional one-half percent tax on retail sales and will expire in 2039.

Passage of ACA 4 would allow the Los Angeles County Metropolitan Transportation Authority (Metro) to extend Measure R and/or create another transportation sales tax with a 55% majority of the voters.

Writing in support of ACA 4, the California Transportation Commission points out that "Sales tax investments, directed towards local transportation needs, have proven to provide tremendous benefit to the overall state transportation system. Funds generated from sales tax measures serve to reduce congestion, improve public transportation, and enable local governments to better address the critical transportation needs of the state." Supporters argue that the two-thirds threshold for approving special taxes allows a small minority of voters to control transportation investment decisions and contributes to the difficulty in funding crucial projects.

Opponents argue that any tax is worthy of a broad level of voter sanction and, thus, the existing two-thirds vote requirement is justified.

## BACKGROUND

Since 1923, California and the rest of the nation has relied heavily on gas taxes to support its local streets and roads and state highway system. The gas tax is no longer a viable, sustainable revenue source as the result of the following reasons:

- The purchasing power of gas tax revenues has declined significantly due to inflation. If current tax rates, set in 1994, remain unchanged through 2035, real gas tax revenues will have declined by over 40%; and,
- Improvements in vehicle fuel efficiency have cut directly into gas tax revenues by allowing drivers to travel farther distances while buying less gasoline. Vehicle fuel efficiency is set to nearly double in the next 20 years, which would significantly decrease gas tax revenues.

In the face of rapidly declining gas tax revenues, voters in twenty counties throughout California have turned to imposing special taxes for local transportation projects and programs in their county. Collectively, these counties generate between \$3 billion and \$4 billion annually, money that is used for transportation projects as identified and prioritized by each county and ratified by the voters.

Lowering the constitutional vote threshold for special taxes and bond indebtedness has been tried several times in past years. ACA 23 (Perea) from the 2011-12 legislative session was virtually identical to this constitutional amendment and failed in the Assembly. 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) of 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.

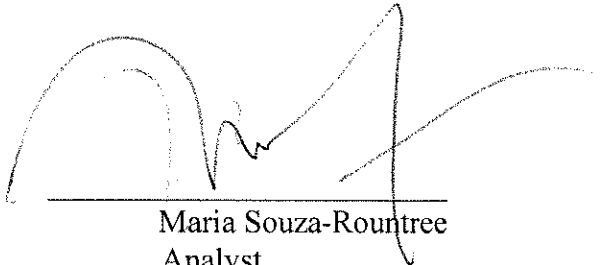
## DEPARTMENTS NOTIFIED

Department of Transportation

## BILL STATUS

4/28/2015 Re-referred to the Committee on Revenue and Taxation.

4/6/2015 Referred to the Committee on Transportation, the Committee on Revenue and  
Taxation, and the Appropriations Committee.  
2/27/2015 Introduced. To print.



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Maria Souza-Rountree  
Analyst

Attachments:

1. Resolution
2. ACA 4 (Frazier)

SMT:msr

# RESOLUTION

## RULES, ELECTIONS & INTERGOVERNMENTAL RELATIONS

WHEREAS, any official position of the City of Los Angeles with respect to legislation, rules, regulations or policies proposed to or pending before a local, state or federal governmental body or agency must have first been adopted in the form of a Resolution by the City Council with the concurrence of the Mayor; and

WHEREAS, since 1923, California has relied on gas taxes to support local roads and state highway system, however, the gas tax is no longer a viable, sustainable revenue source, due to the decline in the purchasing power of gas tax revenues and improvements in vehicle fuel efficiency; and

WHEREAS, the California Constitution conditions the imposition of a special tax by a city, county, or special district upon the approval of 2/3 of the voters of the city, county, or special district voting on that tax; and


WHEREAS, to address declining gas tax revenues, voters across California have imposed special transportation taxes to support local transportation projects and programs in their county; and

WHEREAS, despite the numerous local transportation sales taxes, a two-thirds voter approval threshold is extremely difficult to achieve; and

WHEREAS, on February 27, 2015, Assembly Member Frazier introduced Assembly Constitutional Amendment No. 4 that would provide that the imposition, extension, or increase of a special tax by a local government for the purpose of providing funding for local transportation projects, requires the approval of 55% of its voters voting on the proposition;

NOW, THEREFORE BE IT RESOLVED, that with the concurrence of the Mayor, that by the adoption of this Resolution, the City of Los Angeles hereby includes in its 2015-16 State Legislative Program SUPPORT for ACA 4 (Frazier) that would reduce the voter threshold from two-thirds to 55% for passage of local sales taxes dedicated to transportation purposes.

PRESENTED BY:



PAUL KORETZ  
Councilmember, 5th District

SECONDED BY:



JUN 10 2015

**Assembly Constitutional Amendment**

**No. 4**

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**Introduced by Assembly Member Frazier**  
(Coauthor: Senator Wolk)

February 27, 2015

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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 4 of Article XIII A thereof, and by amending Section 2 of Article XIII C thereof, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

ACA 4, as introduced, Frazier. Local government transportation projects: special taxes: voter approval.

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, except that certain school entities may levy an ad valorem property tax for specified purposes with the approval of 55% of the voters within the jurisdiction of these entities.

This measure would provide that the imposition, extension, or increase of a special tax by a local government for the purpose of providing funding for local transportation projects, as defined, requires the approval of 55% of its voters voting on the proposition. The measure would also make conforming and technical, nonsubstantive changes. This measure would also provide that it shall become effective immediately upon approval by the voters and shall apply to any local measure imposing, extending, or increasing a special tax for local transportation projects submitted at the same election.

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  
 5 the people of the State of California that the Constitution of the  
 6 State be amended as follows:

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

9 ~~SEC. 4. Cities, Counties and special districts, Except as~~  
 10 ~~otherwise provided by Section 2 of Article XIII C, a city, county,~~  
 11 ~~or special district, by a two-thirds vote of the qualified electors of~~  
 12 ~~such district its voters voting on the proposition, may impose~~  
 13 ~~special taxes on such district a special tax within that city, county,~~  
 14 ~~or special district, except an ad valorem taxes tax on real property~~  
 15 ~~or a transaction transactions tax or sales tax on the sale of real~~  
 16 ~~property within such City, County that city, county, or special~~  
 17 ~~district.~~

18 Second— That Section 2 of Article XIII C thereof is amended  
 19 to read:

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

22 (a) ~~All taxes—A tax imposed by any local government shall be~~  
 23 ~~deemed to be is either a general taxes tax or a special taxes. Special~~  
 24 ~~purpose districts tax. A special district or agencies agency,~~  
 25 ~~including a school districts, shall have district, has no power~~  
 26 ~~authority to levy a general taxes tax.~~

27 (b) ~~No—A local government may shall not~~ impose, extend, or  
 28 increase any general tax unless and until that tax is submitted to  
 29 the electorate and approved by a majority vote. A general tax ~~shall~~  
 30 ~~is not be~~ deemed to have been increased if it is imposed at a rate  
 31 not higher than the maximum rate so approved. The election  
 32 required by this subdivision shall be consolidated with a regularly  
 33 scheduled general election for members of the governing body of  
 34 the local government, except in cases of emergency declared by  
 35 a unanimous vote of the governing body.

36 (c) Any general tax imposed, extended, or increased, without  
 37 voter approval, by any local government on or after January 1,

1 1995, and prior to the effective date of this article, ~~shall~~ *may*  
2 continue to be imposed only if *that general tax is* approved by a  
3 majority vote of the voters voting in an election on the issue of the  
4 imposition, which election ~~shall be~~ *is held within two years of the*  
5 ~~effective date of this article~~ *no later than November 6, 1998*, and  
6 in compliance with subdivision (b).

7 (d) ~~No~~ *(1) Except as otherwise provided in paragraph (2), a*  
8 ~~local government may~~ *shall not* impose, extend, or increase any  
9 special tax unless and until that tax is submitted to the electorate  
10 and approved by ~~a two-thirds vote of the voters voting on the~~  
11 ~~proposition~~. A special tax ~~shall be~~ *is not* deemed to have been  
12 increased if it is imposed at a rate not higher than the maximum  
13 rate so approved.

14 (2) (A) *The imposition, extension, or increase of a special tax*  
15 *by a local government for the purpose of providing funding for*  
16 *local transportation projects under its jurisdiction, as may*  
17 *otherwise be authorized by law, requires the approval of 55 percent*  
18 *of the voters voting on the proposition. A special tax for the*  
19 *purpose of providing funding for local transportation projects is*  
20 *not deemed to have been increased if it is imposed at a rate not*  
21 *higher than the maximum rate previously approved in the manner*  
22 *required by law.*

23 (B) *For purposes of this paragraph, "local transportation*  
24 *project" means the planning, design, development, financing,*  
25 *construction, reconstruction, rehabilitation, improvement,*  
26 *acquisition, lease, operation, or maintenance of local streets,*  
27 *roads, and highways, state highways and freeways, and public*  
28 *transit systems.*

29 Third— This measure shall become effective immediately  
30 upon approval by the voters and shall apply to any local measure  
31 imposing, extending, or increasing a special tax for the funding of  
32 local transportation projects that is submitted at the same election.