

1998

## Local Sales and Use Taxes--Revenue Sharing

Follow this and additional works at: [http://repository.uchastings.edu/ca\\_ballot\\_props](http://repository.uchastings.edu/ca_ballot_props)

---

### Recommended Citation

Local Sales and Use Taxes--Revenue Sharing California Proposition 11 (1998).  
[http://repository.uchastings.edu/ca\\_ballot\\_props/1163](http://repository.uchastings.edu/ca_ballot_props/1163)

This Proposition is brought to you for free and open access by the California Ballot Propositions and Initiatives at UC Hastings Scholarship Repository. It has been accepted for inclusion in Propositions by an authorized administrator of UC Hastings Scholarship Repository. For more information, please contact [marcusc@uchastings.edu](mailto:marcusc@uchastings.edu).



## **Local Sales and Use Taxes—Revenue Sharing Legislative Constitutional Amendment.**

---

**Official Title and Summary Prepared by the Attorney General**

### **LOCAL SALES AND USE TAXES—REVENUE SHARING LEGISLATIVE CONSTITUTIONAL AMENDMENT.**

- This measure would authorize local governments to voluntarily enter into sales tax revenue sharing agreements by a two-thirds vote of the local city council or board of supervisors of each participating jurisdiction.

#### **Summary of Legislative Analyst's Estimate of Net State and Local Government Fiscal Impact:**

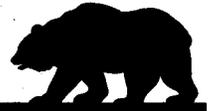
- No net change in total sales tax revenues going to cities and counties.
  - Potential shift of sales tax revenues among cities and counties.
- 

#### **Final Votes Cast by the Legislature on ACA 10 (Proposition 11)**

Assembly: Ayes 64	Senate: Ayes 30
Noes 4	Noes 2

---

## Analysis by the Legislative Analyst



---

### Background

The sales tax is an important source of revenue for both the state and local governments, as Californians paid about \$29 billion in sales taxes in 1997-98. The sales tax rate has three components:

- A state rate of 6 percent.
- A uniform local rate of 1.25 percent (referred to as the Bradley-Burns rate).
- Optional local "add-on" rates.

Thus, the minimum sales tax rate in all jurisdictions is 7.25 percent. Many jurisdictions have implemented an add-on rate and therefore have a higher sales tax.

The Constitution currently allows counties and cities to enter into contracts to share their revenues from both the Bradley-Burns and other local add-on sales taxes. The contracts, however, must be approved by a majority

vote of the people in each affected jurisdiction. We are not aware of any local governments that have used this provision.

### Proposal

This proposition provides another way of implementing sales tax revenue-sharing contracts. For Bradley-Burns revenues, contracts could be approved by a two-thirds vote of each affected jurisdiction's *governing body* (a city council or board of supervisors).

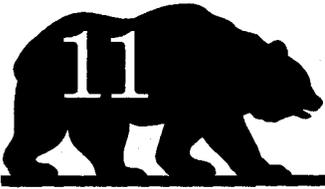
### Fiscal Impact

This proposition would not change the *total* amount of sales tax revenues going to cities and counties. If cities and counties enter into revenue-sharing contracts as a result of this proposition, then there would be a *shift* of sales tax revenues among these entities.

---

**For the text of Proposition 11 see page 15**

---



## Local Sales and Use Taxes—Revenue Sharing Legislative Constitutional Amendment.

---

### Argument in Favor of Proposition 11

#### **PROTECT YOUR LOCAL COMMUNITY TAX DOLLARS!**

*Proposition 11 will stop irresponsible corporations and local governments from wasting our local tax dollars. A YES vote on Proposition 11 will allow locally elected city and county officials to work together.*

**PROPOSITION 11 WILL NOT RAISE YOUR TAXES.**

**PROPOSITION 11 WILL MAKE SURE YOUR TAX DOLLARS ARE SPENT RESPONSIBLY!**

Proposition 11 authorizes local governments to voluntarily enter into sales tax revenue sharing agreements by a two-thirds vote of the local city council or board of supervisors of each participating jurisdiction. By working together, rational land use planning and free market principles will determine where businesses locate.

Current law requires a popular vote of entire jurisdictions even when a potential revenue sharing agreement involves only one prospective retailer. Proposition 11 provides an alternative that is more efficient, reasonable and less costly, not only for businesses but also for local communities and taxpayers.

Large sales tax generators provide valuable services and employment opportunities to the communities in which they locate. Proposition 11 provides a mechanism where local communities can cooperate, rather than engage in bidding wars, in order to attract new businesses and retain long-time businesses. Under this

revenue sharing measure, taxpayers are the ultimate winners, which is one reason the Howard Jarvis Taxpayers Association has joined with California Business Properties Association in supporting Proposition 11.

Proposition 11 was placed on the ballot by the Legislature with *overwhelming bipartisan support* and is supported by taxpayer groups, local governments, and business groups.

Proposition 11 will empower cities and counties to work together, by giving them a means to cooperate in providing new consumer choice, job opportunities, and sources of local revenue.

Proposition 11 returns fiscal responsibility to the local level and *protects taxpayers and responsible businesses from the actions of a few irresponsible corporations.*

Your YES vote on Proposition 11 protects local communities and local tax dollars. **VOTE YES ON PROPOSITION 11!**

**GEORGE C. RUNNER, JR.**  
*Assemblymember, 36<sup>th</sup> District*

**TOM TORLAKSON**  
*Assemblymember, 11<sup>th</sup> District*

**REX S. HIME**  
*President, California Business Properties Association*

---

### Rebuttal to Argument in Favor of Proposition 11

The California Constitution already allows the State Legislature to authorize counties and cities to enter into revenue sharing contracts, but provides that the contracts will not become "*operative*" until approved by local voters (Article 13, Section 29 adopted by California voters in 1974).

Proposition 11 would retain that language, but add another way in which counties and cities might enter into revenue sharing contracts—a way that would **NOT REQUIRE THE CONSENT OF LOCAL VOTERS.**

Proposition 11 would permit the State Legislature to, in turn, authorize counties and cities to enter into a revenue sharing contract if "*approved by a two-thirds vote of the governing body of each jurisdiction that is a party to the contract.*"

That's unwise for two reasons: (1) the requirement that voters must approve the deal is a safeguard against bad

deals, and (2) making "revenue sharing" easier would also make it more inviting for counties and cities to attempt to increase local taxes.

And that brings us to another concern: that the proposed language could be interpreted to give the State Legislature *more power* to allow counties and cities to increase local sales or use taxes.

As it stands, the California Constitution limits the power of local governments to increase taxes. For example, the Gann Spending Limit (Article 13B of the California Constitution approved by voters in 1979) limits increased spending and requires that surpluses be returned to residents. Proposition 11 might change that.

Vote NO.

**MELVIN L. EMERICH**  
*Attorney at Law*

# Local Sales and Use Taxes—Revenue Sharing Legislative Constitutional Amendment.



## Argument Against Proposition 11

In Proposition 11, the State Legislature is asking voters to amend the California Constitution.

The California Constitution defines and limits the powers of state and local officials. It should not be amended lightly. Voters should be particularly cautious of proposals by the State Legislature to amend the Constitution. There is a tendency for politicians to want to maintain and increase their political power.

There is something very fishy about Proposition 11.

Proposition 11 would add provisions to the California Constitution concerning "revenue sharing" among counties and cities. It would permit the State Legislature to, in turn, "authorize counties, cities and counties and cities to enter into contracts to apportion between them the revenue derived from any sales or use tax imposed by them that is collected for them by the State."

Proposition 11 would further provide that "(b)efore the contract becomes operative, it shall be authorized by a majority of those voting on the question in each jurisdiction at a general or direct primary election."

This is followed by another clause in Proposition 11 which states cities and counties may agree to revenue sharing, without the consent of local voters, "from any sales or use tax imposed by them pursuant to the

*Bradley-Burns Uniform Sales and Use Tax Law . . . if . . . approved by a two-thirds vote of the governing body of each jurisdiction that is a party to the contract."*

What's going on here?

First of all, insofar as Proposition 11 would make it easier for counties and cities to share revenue, the amendment would also make it more inviting for counties and cities to increase local revenue. Governments at every level can always create or find programs and projects they consider deserving of public funds.

Second, Proposition 11 might be interpreted to give the State Legislature more power to, in turn, give counties and cities greater authority to increase sales and use taxes. Currently, the California Constitution places various restrictions upon the authority of local governments to increase taxes or fees.

Proposition 11 is NOT just about "revenue sharing." It would increase the likelihood of higher sales taxes and user fees.

**MELVIN L. EMERICH**  
*Attorney at Law*

## Rebuttal to Argument Against Proposition 11

The opponent argues that "something fishy is going on." Unfortunately, he obviously does not understand this simple amendment to the State Constitution that prevents local governments and businesses from wasting our tax dollars. There is nothing fishy about a responsible change like Proposition 11.

The writer is correct to argue the State Constitution should not be amended lightly. However, he mistakenly assumes that because he does not understand this simple proposal, it is bad. This amendment to the State Constitution was introduced in the legislature nearly two years ago, had six public hearings, and was debated before both houses of the legislature. During all that time no one opposed this measure. Where was the writer when this measure progressed through the legislative process?

Proposition 11 makes a simple change to the constitution that empowers local governments to cooperate in preventing the waste of tax dollars. The Constitution places various legitimate restrictions upon the authority of local governments to increase taxes or

fees. Proposition 11 does nothing to undermine these important protections. In fact, Proposition 11 actually enhances these protections by preventing waste.

**THAT IS WHY THIS MEASURE IS SUPPORTED BY THE HOWARD JARVIS TAXPAYERS ASSOCIATION.**

There is nothing fishy about the decision facing California voters. A yes vote on Proposition 11 will allow businesses and local governments to work together to end wasteful bidding wars over sales tax revenue.

**PROPOSITION 11 WILL NOT RAISE YOUR TAXES, IT WILL PROTECT YOUR TAX DOLLARS!**

**VOTE YES ON PROPOSITION 11!**

**GEORGE C. RUNNER, JR.**  
*Assemblyman, 36<sup>th</sup> District*

**TOM TORLAKSON**  
*Assemblyman, 11<sup>th</sup> District*

**REX S. HIME**  
*President, California Business Properties Association*

(2) The development of new campuses, small campuses with enrollments of less than 5,000 full-time equivalent students, and off-campus centers at the California State University and the California Community Colleges.

(b) The amount of the allocation of funds required pursuant to this section for the development of new campuses may be reduced by a future legislative act if the Legislature finds that state funds have been provided from sources other than the proceeds of bonds for capital outlay costs. The reduction shall be limited to the amount actually provided from sources other than bond proceeds.

100460. The Higher Education Facilities Finance Committee established pursuant to Section 67353 is hereby authorized to create a debt or debts, liability or liabilities, of the State of California pursuant to this chapter for the purpose of providing funds to aid the University of California, the Hastings College of the Law, the California State University, and the California Community Colleges.

#### Article 2. Higher Education Fiscal Provisions

100500. (a) Bonds in the total amount of two billion five hundred million dollars (\$2,500,000,000), not including the amount of any refunding bonds issued in accordance with Section 100555, or so much thereof as is necessary, may be issued and sold to provide a fund to be used for carrying out the purposes expressed in this chapter and to reimburse the General Obligation Bond Expense Revolving Fund pursuant to Section 16724.5 of the Government Code. The bonds, when sold, shall be and constitute a valid and binding obligation of the State of California, and the full faith and credit of the State of California is hereby pledged for the punctual payment of the principal of, and interest on, the bonds as the principal and interest become due and payable.

(b) Pursuant to this section, the Treasurer shall sell the bonds authorized by the Higher Education Facilities Finance Committee established pursuant to Section 67353 at any different times necessary to service expenditures required by the apportionments.

100510. (a) The bonds authorized by this chapter shall be prepared, executed, issued, sold, paid, and redeemed as provided in the State General Obligation Bond Law (Chapter 4 (commencing with Section 16720) of Part 3 of Division 4 of Title 2 of the Government Code), and all of the provisions of that law, except Section 16727 of the Government Code, apply to the bonds and to this chapter and are hereby incorporated in this chapter as though set forth in full in this chapter.

(b) For the purposes of the State General Obligation Bond Law, each-state agency administering an appropriation of the 1998 Higher Education Capital Outlay Bond Fund is designated as the "board" for projects funded pursuant to this chapter.

(c) The proceeds of the bonds issued and sold pursuant to this chapter shall be available for the purpose of funding aid to the University of California, the Hastings College of the Law, the California State University, and the California Community Colleges, for the construction on existing or new campuses, and their respective off-campus centers, including the construction of buildings and the acquisition of related fixtures, renovation, and reconstruction of facilities, for the acquisition of sites upon which these facilities are to be constructed, for the equipping of new, renovated, or reconstructed facilities, which equipment shall have a useful life of at least 10 years, to provide funds for payment of preconstruction costs, including, but not limited to, preliminary plans and working drawings.

100520. The Higher Education Facilities Finance Committee established pursuant to Section 67353 shall authorize the issuance of bonds under this chapter only to the extent necessary to fund the apportionments for the purposes described in this chapter that are expressly authorized by the Legislature in the annual Budget Act. Pursuant to that legislative direction, the committee shall determine whether or not it is necessary or desirable to issue bonds authorized pursuant to this chapter in order to carry out the purposes described in this chapter and, if so, the amount of bonds to be issued and sold. Successive issues of bonds may be authorized and sold to carry out those actions progressively, and it is not necessary that all of the bonds authorized to be issued be sold at any one time.

100525. There shall be collected each year and in the same manner and at the same time as other state revenue is collected, in addition to the ordinary revenues of the state, a sum in an amount required to pay the principal of, and interest on, the bonds each year. It is the duty of all officers charged by law with any duty in regard to the collection of the revenue to do and perform each and every act which is necessary to collect that additional sum.

100530. Notwithstanding Section 13340 of the Government Code, there is hereby appropriated from the General Fund in the State Treasury, for the purposes of this chapter, an amount that will equal the total of the following:

(a) The sum annually necessary to pay the principal of, and interest on, bonds issued and sold pursuant to this chapter, as the principal and interest become due and payable.

(b) The sum necessary to carry out Section 100545, appropriated without regard to fiscal years.

100535. The board, as defined in subdivision (b) of Section 100510, may request the Pooled Money Investment Board to make a loan from the Pooled Money Investment Account or any other approved form of interim financing, in accordance with Section 16312 of the Government Code, for the purpose of carrying out this chapter. The amount of the request shall not exceed the amount of the unsold bonds that the committee, by resolution, has authorized to be sold for the purpose of carrying out this chapter. The board, as defined in subdivision (b) of Section 100510, shall execute any documents required by the Pooled Money Investment Board to obtain and repay the loan. Any amounts loaned shall be deposited in the fund to be allocated by the board in accordance with this chapter.

100540. Notwithstanding any other provision of this chapter, or of the State General Obligation Bond Law, if the Treasurer sells bonds pursuant to this chapter that include a bond counsel opinion to the effect that the interest on the bonds is excluded from gross income for federal tax purposes, subject to designated conditions, the Treasurer may maintain separate accounts for the investment of bond proceeds and for the investment earnings on those proceeds. The Treasurer may use or direct the use of those proceeds or earnings to pay any rebate, penalty, or other payment required under federal law or take any other action with respect to the investment and use of those bond proceeds required or desirable under federal law to maintain the tax-exempt status of those bonds and to obtain any other advantage under federal law on behalf of the funds of this state.

100545. (a) For the purposes of carrying out this chapter, the Director of Finance may authorize the withdrawal from the General Fund of an amount not to exceed the amount of the unsold bonds that have been authorized by the Higher Education Facilities Finance Committee to be sold for the purpose of carrying out this chapter. Any amounts withdrawn shall be deposited in the 1998 Higher Education Capital Outlay Bond Fund consistent with this chapter. Any money made available under this section shall be returned to the General Fund, plus an amount equal to the interest that the money would have earned in the Pooled Money Investment Account, from proceeds received from the sale of bonds for the purpose of carrying out this chapter.

(b) Any request forwarded to the Legislature and the Department of Finance for funds from this bond issue for expenditure for the purposes described in this chapter by the University of California, the California State University, or the California Community Colleges shall be accompanied by the five-year capital outlay plan. Requests forwarded by a university or college shall include a schedule that prioritizes the seismic retrofitting needed to significantly reduce, by the 2002-03 fiscal year, in the judgment of the particular university or college, seismic hazards in buildings identified as high priority by the university or college. Requests forwarded by the California Community Colleges shall be accompanied by a five-year capital outlay plan reflecting the needs and priorities of the community college system, prioritized on a statewide basis.

100550. All money deposited in the 1998 Higher Education Capital Outlay Bond Fund that is derived from premium and accrued interest on bonds sold shall be reserved in the fund and shall be available for transfer to the General Fund as a credit to expenditures for bond interest.

100555. The bonds may be refunded in accordance with Article 6 (commencing with Section 16780) of Chapter 4 of Part 3 of Division 4 of Title 2 of the Government Code, which is a part of the State General Obligation Bond Law. Approval by the voters of the state for the issuance of the bonds described in this chapter includes the approval of the issuance of any bonds issued to refund any bonds originally issued under this chapter or any previously issued refunding bonds.

100560. The Legislature hereby finds and declares that, inasmuch as the proceeds from the sale of bonds authorized by this chapter are not "proceeds of taxes" as that term is used in Article XIII B of the California Constitution, the disbursement of these proceeds is not subject to the limitations imposed by that article.

### Proposition 11: Text of Proposed Law

This amendment proposed by Assembly Constitutional Amendment 10 (Statutes of 1998, Resolution Chapter 133) expressly amends the California Constitution by amending a section thereof; therefore, existing provisions proposed to be deleted are printed in ~~strikeout type~~ and new provisions proposed to be added are printed in *italic type* to indicate that they are new.

#### PROPOSED AMENDMENT TO SECTION 29 OF ARTICLE XIII

SEC. 29. (a) The Legislature may authorize counties, cities and counties, and cities to enter into contracts to apportion between them the revenue derived from any sales or use tax imposed by them ~~which that~~ is collected for them by the

State. Before ~~any such~~ the contract becomes operative, it shall be authorized by a majority of those voting on the question in each jurisdiction at a general or direct primary election.

(b) Notwithstanding subdivision (a), on and after the operative date of this subdivision, counties, cities and counties, and cities may enter into contracts to apportion between them the revenue derived from any sales or use tax imposed by them pursuant to the Bradley-Burns Uniform Local Sales and Use Tax Law, or any successor provisions, that is collected for them by the State, if the ordinance or resolution proposing each contract is approved by a two-thirds vote of the governing body of each jurisdiction that is a party to the contract.