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## School Funding. Property Tax Revenues. Initiative Constitutional and Statutory Amendment.

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December 2, 2013

Ms. Ashley Johansson  
Initiative Coordinator  
Office of the Attorney General  
State of California  
P. O. Box 994255  
Sacramento, CA 94244-2550

RECEIVED

DEC 02 2013

INITIATIVE COORDINATOR  
ATTORNEY GENERAL'S OFFICE

Re: Request for Title and Summary for Proposed Initiative

Dear Ms. Johansson:

Pursuant to Article II, Section 10(d) of the California Constitution, we submit the attached amended proposed statewide ballot measure ("Protection of Local School Revenues Act of 2014") to your office and request that you prepare a circulating title and summary of the measure as provided by law. This submission contains non-substantive amendments to **13-0047-1**. In a separate document we show the two changes. We have also included with this letter the required signed statements pursuant to California Elections Code sections 9001 and 9608. Our addresses as registered to vote are shown on Attachment 'A' to this letter.

Thank you for your time and attention to this matter. Should you have any questions or require additional information, and for public inquiries, please contact the undersigned by phone at (510) 500-5147, email at [initiative@educateourstate.org](mailto:initiative@educateourstate.org), or direct written correspondence to 6114 LaSalle Avenue #441, Oakland, CA, 94611.

Very truly yours,



Katherine G. Welch  
Educate Our State  
Proponent



Jennifer L. Bestor  
Educate Our State  
Proponent

**Protection of Local School Revenues Act of 2014**

## SECTION 1. STATEMENT OF FINDINGS

- A. In 2004, the State of California began redirecting substantial local property taxes away from school entities to satisfy its own obligations and commitments. This diversion now amounts to over \$7 billion every year. The diverted funds are not repaid in a timely manner, causing additional financial harm to schools that are already among the lowest funded in the United States.
- B. In March 2004, voters passed the Economic Recovery Bond Act of 2004 (Proposition 57) to explicitly approve the redirection of about \$1.2 billion of property taxes allocated to school entities, annually for up to 14 years, to finance prior state deficits. Voters were assured that the State would backfill this redirection from the General Fund.
- C. In July 2004, the California Legislature passed an 'urgency statute,' Senate Bill 1096, which addressed numerous elements of local government finance. In addition to other matters, the Bill required the county auditor to redirect yet more property tax revenues allocated to local school entities to fund another of the State's obligations, the backfill of counties' and cities' losses due to the State's reduction in Vehicle License Fees (VLF). No proposition was filed to gain voter approval for this much larger redirection of over \$4 billion annually of local school entity property tax to discharge the State's VLF reduction backfill commitment.
- D. Proposition 1A (2004) was then filed to protect cities', counties' and special districts' allocations of local property tax revenue. When it passed in November, it prevented the State from redirecting those local governments' property tax revenues, but offered no similar protection to schools.
- E. Thus began the process of using school entities' unprotected local property tax revenue – allocated to school districts, community colleges, county offices of education and each county's Educational Revenue Augmentation Fund – to fulfill State obligations.
- F. Additional incursions into local school property taxes have been added by the Legislature, most recently the July 2013 redirection of local property taxes directly allocated to county superintendents of schools to instead reimburse 'the state costs of providing trial court services and costs.'
- G. Except for a small number of "excess tax" school districts in areas with high property values, this has meant that school districts are fourth in line for the property taxes allocated to local education. The State has required county auditor-controllers to redirect all or much of the available Educational Revenue Augmentation Fund moneys in every county. The State has also required redirection of significant specific school-district allocated property taxes in Butte, Colusa, Fresno, Humboldt, Imperial, Kern, Kings, Marin, Merced, Modoc, Monterey, Orange, Riverside, San Benito, San Bernardino, San Diego, Santa Cruz, Shasta, Siskiyou, Solano, Stanislaus, Sutter, Tehama, Trinity, Tulare,

Ventura and Yolo counties. In San Mateo county, all local general property tax allocated to K-12 school districts has been redirected from every revenue-limit school district to fund the State's obligations.

- H. The State has repeatedly been unable to meet its commitment to repay school funds when they are owed. Total outstanding deferrals of monies owed to school and community college districts exceeded \$10.4 billion at the end of the 2011-12 fiscal year, \$8.2 billion at the end of 2012-13, and ongoing deferrals are estimated at over \$6 billion for the 2013-14 school year. These deferrals have placed a heavy cash burden on many school districts, particularly on low-income districts without large reserves or other sources of funding.
- I. The burden on schools has been increased by the choice of formula for funding the VLF backfill. Originally, the mechanism was intended and gauged to compensate cities and counties for the revenues lost when the VLF was reduced from 2% to .65%. Because the funding formula was linked to growth in gross assessed property valuation, which has grown, cities and counties have received more funding from schools' revenues than was required to compensate the cities and counties for the loss of VLF revenues. The Governor's Budget Summary of 2013-14 stated that the estimated value of the redirected property tax revenues was \$6 billion, while the true backfill obligation was just \$4.1 billion. Thus \$1.9 billion more was transferred out of school property taxes than was necessary to meet this obligation. Significant excesses were also reported in 2012-13, of \$1.7 billion; in 2011-12, of \$1.4 billion; and in earlier years.
- J. Education funding and local property tax distribution have lost transparency, equity, and accountability in this process.
- K. This Measure shall be known as the "Protection of Local School Revenues Act of 2014."

## SECTION 2. STATEMENT OF PURPOSE

Therefore, in order to ensure that the taxes paid by local property owners to counties for the purpose of funding local school entities are in fact paid to, and received by, those school entities, the People hereby amend the Constitution to prohibit the Legislature from diverting funds (a) from the base local property tax apportionments of school districts, county offices of education, and community colleges and (b) from county Educational Revenue Augmentation Funds. Further, the People hereby amend the statutes of the State of California to remove the Vehicle License Fee Swap transfer from school entities' revenues, while ensuring that cities, counties, and cities and counties will receive Vehicle License Fee backfill payments commensurate with actual Vehicle License Fee revenue reductions.

### SECTION 3. AMENDMENT TO CONSTITUTION

Section 25.6 is added to Article XIII of the California Constitution, to read:

#### SEC. 25.6

- (a) On or after November 4, 2014, the Legislature shall not enact a statute to do either of the following:
- (1) Require a school entity to pay, remit, loan, shift, or otherwise transfer, directly or indirectly, ad valorem property tax revenues or tangible personal property tax revenues allocated to that entity under the laws of California as they read on January 1, 2014, to, or for the benefit of, the State, any agency of the State, or any local agency; nor require the auditor or controller of any county to effect any such payment, remission, loan, shift, or transfer.
  - (2) Reduce the allocation of ad valorem property tax revenues to a county's school entities other than: (i) for the purpose of fulfilling the obligations of the Economic Recovery Bond Act of 2004, as outlined under the Revenue and Taxation Code of the State of California Section 97.68 as that section read on January 1, 2014; or (ii) for the distribution among local agencies of excess revenues remaining in the Educational Revenue Augmentation Fund after all existing statutory distributions to school entities from that Fund have been made.
- (b) This section shall not be construed to alter or impair any rights, remedies, or obligations that may exist under a financing agreement to lease or lease-purchase property validly executed prior to November 4, 2014, pursuant to California Government Code Section 25350.55.
- (c) This section shall not be construed to alter or impair any rights, remedies, or obligations respecting certificates of participation or lease-revenue bonds validly issued prior to November 4, 2014, under California Government Code Section 25350.6.
- (d) For purposes of this section, the following definitions apply:
- (1) "Ad valorem property tax revenues" means all revenues derived from the tax collected by a county under subdivision (a) of Section 1 of Article XIII A, regardless of any of this revenue being otherwise classified by statute.
  - (2) "School entities" means school districts, community college districts, county Educational Revenue Augmentation Funds, and county superintendents of schools.
  - (3) "Local agency" means a city, county, or special district.

#### SECTION 4. STATUTORY REVISIONS

(a) Section 97.70 of the Revenue and Taxation Code is hereby repealed, effective July 1, 2015.

(b) Section 10754.12 is added to the Revenue and Taxation Code, to read:

##### *10754.12*

*(a) Beginning in fiscal year 2015-2016, and in each subsequent fiscal year, by the 10th day of each calendar month, the Controller shall:*

*(1) Transfer from the General Fund to the Vehicle License Fee Backfill Fund, which is hereby created in the State Treasury, an amount equal to the difference between the following two amounts:*

*(A) The estimated total amount of revenue that would be required to be distributed under Chapter 5 (commencing with section 11001) of Part 5 of Division 2 of the Revenue and Taxation Code for allocation, directly or indirectly, to, or for the benefit of cities, counties, and cities and counties for that month, if the fee otherwise due under the Vehicle License Fee Law (Pt. 5 (commencing with Section 10701) of Div. 2) were 2 percent of the market value of a vehicle, as specified in Section 10752 and 10752.1 as those Sections read on January 1, 2004;*

*(B) The total amount of revenue that is required to be distributed under Chapter 5 (commencing with section 11001) of Part 5 of Division 2 of the Revenue and Taxation Code for allocation, directly or indirectly, to, or for the benefit of cities, counties, and cities and counties for that month.*

*(2) (A) Allocate 81.25% of any moneys in the Vehicle License Fee Backfill Fund to each city, county, and city and county as described in combined Sections 11001.5 (b)(1)(A) and 11001.5 (b)(1)(B) of the Taxation and Revenue Code, as those sections read on January 1, 2013.*

*(B) Allocate 18.75% of any moneys in the Vehicle License Fee Backfill Fund to each county, and city and county in the proportion that the population of each county or city and county bears to the total population of all counties and cities and counties, as determined by the population research unit. For purposes of this subparagraph, the population of each county or city and county is that determined by the last federal census, or subsequent census validated by the population research unit, or as determined by Section 11005.6 of the Revenue and Taxation Code.*

*(b) Moneys in the Vehicle License Fee Backfill Fund are hereby appropriated to the Controller for allocation by the Controller according to this section.*

*(c) Moneys distributed under this section are otherwise without restriction on use.*

*(d) This section shall not be construed to do any of the following:*

(1) *Alter the manner in which ad valorem property tax revenue growth from fiscal year to fiscal year is otherwise determined or allocated in a county.*

(2) *Reduce ad valorem property tax revenue allocations required under Article 4 (commencing with Section 98).*

(e) *Tax exchange or revenue sharing agreements, entered into prior to the operative date of this section, between local agencies or between local agencies and nonlocal agencies, are deemed to be modified in that any revenues allocated to cities, counties, or cities and counties from the Vehicle License Fee Backfill Fund are in lieu of ad valorem property tax revenues previously allocated from a Vehicle License Fee Property Tax Compensation Fund or an Educational Revenue Augmentation Fund.*

(f) *Nothing in this section shall be construed to limit the ability of the Legislature to raise the Vehicle License Fees assessed. If the Legislature alters the Vehicle License Fee such that, in any month, the amount specified in subdivision (a)(1)(B) of this section exceeds the amount specified in subdivision (a)(1)(A), then no transfers from the General Fund shall be required in that month.*

(g) *For purposes of Section 15 of Article XI of the California Constitution, the amounts transferred to the Vehicle License Fee Backfill Fund under this section constitute successor taxes that are otherwise required to be allocated to counties and cities, and as successor taxes, the obligation to make those transfers as required by this section shall not be extinguished nor disregarded in any manner that adversely affects the security of, or the ability of, a county or city to pay the principal and interest on any debts or obligations that were funded or secured by that city's or county's allocated share of motor vehicle license fee revenues.*

(h) *This section is operative for the period beginning on and after July 1, 2015. The Legislature may amend subparagraph (a)(2) of this section, to provide for a different allocation of moneys from the Vehicle License Fee Backfill Fund to cities, counties and cities and counties, pursuant to a bill passed by majority vote in each house of the Legislature. The Legislature may repeal or amend any other aspect of this section pursuant to a bill passed in each house of the Legislature by rollcall vote entered in the journal, two-thirds of the membership concurring.*

(c) Section 25350.55 of the California Government Code is hereby amended, effective July 1, 2015, as follows:

25350.55

(a) Prior to entering into an agreement to finance the lease or lease-purchase of property through the execution and delivery or issuance, as the case may be, of certificates of participation or lease revenue bonds, the board may elect, by resolution, to guarantee payment under that financing agreement in accordance with the following:

(1) A county that elects to participate under this section shall provide notice to the Controller of that election, which shall include a schedule for the payments to

be made by the county under that financing agreement, and identify a trustee appointed by the county for the purposes of this section.

(2) In the event that, for any reason, the funds otherwise available to the county will not be sufficient to make any payment under the financing agreement at the time that payment is required, the county shall so notify the trustee. The trustee shall immediately communicate that information to the affected holders of certificates of participation or bondholders, and to the Controller.

(3) When the Controller receives notice from the trustee as described in paragraph (2), or the county fails to make any payment under the financing agreement at the time that payment is required, the Controller shall make an apportionment to the trustee in the amount of that required payment for the purpose of making that payment. ~~The Controller shall make that payment only from funds received from the county auditor pursuant to paragraph (4).~~

~~(4) If either of the circumstances set forth in paragraphs (2) and (3) occur, the county shall immediately notify the county auditor and deliver to the county auditor a duly certified copy of the resolution of the board of supervisors adopted pursuant to Section 29530.5. The county auditor shall reduce the vehicle license fee adjustment amount set forth in Section 97.70 of the Revenue and Taxation Code and transmit those funds to the Controller to the extent necessary to make the payments required by paragraphs (2) and (3). The Controller shall make the payment specified in paragraph (3) only from moneys credited to the Vehicle License Fee Backfill Fund to which that county is entitled at that time under section 10754.12 of the Revenue and Taxation Code, and shall thereupon reduce, by the amount of the payment, the subsequent allocation or allocations to which the county would otherwise be entitled under that chapter.~~

(5) As an alternate to the procedure set forth in paragraphs (2) and (3), the board of supervisors may provide a transfer schedule in a notice to the Controller of its election to participate under this section. The transfer schedule shall set forth amounts to be transferred to the trustee and the date or dates for the transfers and the Controller shall, subject to the limitation in ~~the second sentence of~~ paragraph ~~(3)~~(4), make apportionments to the trustee in those amounts on the specified date or dates for the purpose of making those transfers.

(6) In the event that for any reason, the county is no longer obligated for any period to make all or a portion of the payments with respect to the lease or lease-purchase financed through the execution and delivery, or issuance, as the case may be, of certificates of participation or lease revenue bonds, the trustee shall notify the affected holders of certificates of participation or bondholders. The trustee shall also notify the Controller. Upon receipt of the notification, the Controller shall cease making the transfers. If after giving notice, the obligation of the county to make payments with respect to a lease or lease-purchase financed through the execution and delivery or issuance, as the case may be, of certificates



of participation or lease revenue bonds is restored, the trustee shall so notify the affected holders of certificates of participation or bondholders and the Controller. Upon receipt of the notification, the Controller shall resume making the transfers.

(b) This section shall not be construed to obligate the State of California to make any payment to a county from the Motor Vehicle License Fee Account in the Transportation Tax Fund in any amount or pursuant to any particular allocation formula, or to make any other payment to a county, including, but not limited to, any payment in satisfaction of any debt or liability incurred or guaranteed by a county in accordance with this section.

(d) Section 25350.6 of the California Government Code is hereby amended, effective July 1, 2015, as follows:

25350.6

(a) Moneys credited to the Motor Vehicle License Fee Account in the Transportation Tax Fund or allocated to the Vehicle License Fee Property Tax Compensation Fund of the County of Orange pursuant to paragraph (2) of subdivision (a) of Section 97.70 of the Revenue and Taxation Code, *or allocated to the Vehicle License Fee Backfill Fund pursuant to Section 10754.12 of the Revenue and Taxation Code*, to which Orange County may at any time be entitled shall be pledged, without any necessity for specific authorization of the pledge by the board of supervisors, to all certificates of participation or lease-revenue bonds executed and delivered or issued, as the case may be, during 1996 or 1997, including obligations executed and delivered or issued before 2010 to refund those certificates of participation or lease-revenue bonds, to finance or refinance the lease or lease-purchase of property of the county and having a stated maturity of 20 years or more. Any refunding obligations shall not have a final maturity later than the final maturity of the refunded obligations. The amount so pledged with respect to any fiscal year of the county shall not exceed the amounts to be paid in that fiscal year on those certificates or lease-revenue bonds.

(b) The state hereby covenants with the holders of any certificates of participation or lease-revenue bonds, including refunding obligations, entitled to the pledge granted by this section that, as long as any of the certificates of participation or lease-revenue bonds entitled to the pledge granted by this section shall remain outstanding, the state shall not alter or amend the deposit of moneys into, or the allocation of moneys credited to, the Motor Vehicle License Fee Account in the Transportation Tax Fund under Chapter 5 (commencing with Section 11001) of Part 5 of Division 2 of the Revenue and Taxation Code or the allocation of moneys to and from the Vehicle License Fee Property Tax Compensation Fund of the County of Orange under Section 97.70 of the Revenue and Taxation Code *or the allocation of moneys to and from the Vehicle License Fee Backfill Fund under Section 10754.12 of the Revenue and Taxation Code* in any manner that would adversely affect the security of, or the ability of the county to pay the principal of and interest on, the certificates of participation or lease-revenue bonds entitled to the pledge granted by this section. However, nothing precludes any alteration or amendment if and when adequate provision has been made by law for the protection from impairment

of the contract represented by the certificates of participation or lease-revenue bonds, and the right to so alter or amend is hereby reserved. The County of Orange may include this covenant of the state in the agreements or other documents underlying the certificates of participation or lease-revenue bonds.

- (e) Section 2578 of the California Education Code is hereby amended, effective July 1, 2015, as follows:

2578

(a) Each fiscal year, the Superintendent shall determine the amount of funds that will be restricted for each county superintendent of schools pursuant to subdivisions (e) and (g) of Section 2575 as of June 30 of the prior fiscal year.

(b) The auditor-controller of each county shall distribute the amounts determined in subdivision (a) to the ~~Supplemental Revenue Augmentation Fund created within the county pursuant to Section 100.06 of the Revenue and Taxation Code~~ *Child Development Fund created within the county pursuant to Section 8328 of Article 15 of Chapter 2 of Part 6 of Division 1 of the Education Code*. The aggregate amount of transfers required by this subdivision shall be made annually in two equal shares, with the first share transferred no later than January 15, of each year, and the second share transferred after that date but no later than May 1.

(c) ~~The moneys transferred to the Supplemental Revenue Augmentation Fund for the purposes of this section shall be transferred by the county office of education to the Controller for those purposes as directed by the Director of Finance, exclusively to reimburse the state for the costs of providing trial court services and costs, until those moneys are exhausted.~~ *The moneys transferred to the Child Development Fund for the purposes of this section shall be used under the Child Care and Development Services Act at Chapter 2 of Part 6 of Division 1 of the California Education Code.*

## SECTION 5. GENERAL PROVISIONS

- (a) Nothing in this measure shall be construed to limit the ability of the Legislature to raise the Vehicle License Fee in order to generate any revenues necessary to satisfy the transfer obligation from the General Fund to the Vehicle License Fee Backfill Fund provided in section 10754.12 of the Revenue and Taxation Code.
- (b) The Legislature is authorized to amend other provisions of the Revenue and Taxation Code, Government Code, and Health and Safety Code, effective July 1, 2015, as necessary to replace references to the repealed Vehicle License Fee Property Tax Compensation Fund and the amounts allocated to cities, counties, and cities and counties under former Revenue and Taxation Code section 97.70 with references to the Vehicle License Fee Backfill Fund and the amounts transferred to cities, counties, and cities and counties pursuant to Revenue and Taxation Code section 10754.12, consistent with the stated purposes of this measure.

- (c) Nothing in this measure shall be construed to alter the provisions of Proposition 98 as contained in Section 8 of Article XVI of the California Constitution.
- (d) If any provision of this Act, 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 the Act are severable.
- (e) This Act is intended to be comprehensive. It is the intent of the People that in the event this Act or measures relating to the same subject 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 Act. In the event that this Act receives a greater number of affirmative votes, the provisions of this Act shall prevail in their entirety, and all provisions of the other measure or measures shall be null and void.