[MS-0398.024.014.002]

INITIATIVE MEASURE TO BE SUBMITTED DIRECTLY TO THE VOTERS

The Attorney General of California has prepared the following title and summary of the chief purpose and points of the proposed measure:

(Here set forth the title and summary prepared by the Attorney General. This title and summary must also be printed across the top of each page of the petition whereon signatures are to appear.)

TO THE HONORABLE SECRETARY OF STATE OF CALIFORNIA:

We, the undersigned, registered, qualified voters of California, residents of _____ County (or City and County), hereby propose amendments to the Constitution of the State of California and petition the Secretary of State to submit the same to the voters of California for their adoption or rejection at the next succeeding general election or as otherwise provided by law. The proposed constitutional amendments (full title and text of the measure) read as follows:

SECTION 1. **Title and Purpose**

1. This Act shall be known as the "TAXPAYERS' FAIR SHARE ACT."

1.1. The purpose of this Act is to allocate to city and county governments 12% of the state income tax collections (as defined in Section 10.1) to assist in paying for public safety services (as defined in Section 10.2) and public infrastructure (as defined in Section 10.3) or for such other purposes as the local voters may from time to time direct.

SECTION 2. **Findings**

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

2.1. The common objective of a sustainable quality environment in our state requires immediate and aggressive local action.

2.2. Local governments (cities and counties) are presently burdened with financial crises which leave them insufficient revenues to adequately fund public safety and infrastructure needs or to repair and maintain existing infrastructure, all of which are essential components of a sustainable environment.

2.3. In large part, the financial crises facing cities and counties are a result of the state legislature's failure to provide local government with a fair share of state tax collections following the enactment of "Proposition 13", now Article XIII A of the Constitution of the State of California.

2.4. Since the people of California exercise the most direct control over government at the local level (city and/or county jurisdictions) and are the most aware of the specific uses of their tax revenues by this level of government, it is desireable to provide local government with the necessary revenues to address those problems best solved at the local level.

2.5. A fair share of the state income tax collections will permit cities and counties to address specific priorities of local urban and rural environments such as public safety and infrastructure as well as those areas the voters may from time to time direct.

2.6. The allocation to local government of a fair share of the state income tax collections will not necessitate an increase in state taxes since implementation of the act will be phased over four years.

2.7. The allocation to local government of a fair share of the state income tax collections will allow local governments the opportunity to provide for the needs of citizens on a jurisdiction by jurisdiction basis and will substantially reduce the potential for local tax increases.

2.8. Collecting taxes on the basis of income and allocating distribution of tax revenue to local governments on the basis of population, for the specified provision of public safety services and infrastructure, is fair and equitable since all citizens of the state have the same fundamental right to the services and facilities specified in this Act and all local governments have the same fundamental need to provide such services and facilities.

SECTION 3. **Constitutional Amendment**

Article XIII C of the Constitution of the State of California is added as follows:

Article XIII C

TAXPAYERS' FAIR SHARE ACT

Section 1. **Distribution of Income Tax Receipts to Local Governments.**

1.1. On or before June 15 of each year commencing the second calendar year following enactment of this Article, the Controller of the State of California shall apportion and distribute to each city and county their respective share in an amount not less than ten percent (10%) of the state income tax collections for the prior calendar year.

1.2. For purposes of Section 1.1 apportionment shall be based (a) for each city on its respective percentage of the total population of California and (b) for each county on its respective percentage of the total population of California living in that county's unincorporated areas. Population for the state, the cities and the counties shall for the purposes of this apportionment be estimated annually counting all natural residents legally residing within each city or county for United States Census purposes, as modified from time to time, and subject to state income tax collections.

Section 2. **Additional Distribution to Counties.**

2.1. In addition to the distributions to counties pursuant to Section 1.1 of this Article, on or before June 15 of each year, commencing the second calendar year following enactment of this Article, the Controller of the State of California shall apportion and pay to each county its respective share in an amount not less than two percent (2%) of state income tax collections.

2.2. For purposes of Section 2.1, apportionment shall be based for each county on its respective percentage of the total population of California as estimated based upon United States Census as more fully provided in Section 1.2.

Section 3. **No Reduction in Current State Support.**

If from time to time and for any period of time following passage of this Article, the state reduces the percentage of the cumulative total of state revenues from any source whatsoever paid, directly or indirectly, by the state in the fiscal year commencing July 1, 1989, to cities and counties, then the percent of state income tax collections payable to cities and/or counties as a whole pursuant to Sections 1 and 2 shall be increased commensurately to fully compensate for such reduction of the cumulative total and shall continue to be recalculated and paid year to year until such reduction in the cumulative total is fully restored without reference to any individual city or county.

Section 4. **Use of Distributions.**

4.1. From year to year, fifty percent (50%) of any and all state income tax collections paid to local governments (as defined in Section 10.4) pursuant to this Article shall be used, or set aside for use within a reasonable time, for public infrastructure (as defined in Section 10.3).

4.2. From year to year, fifty percent (50%) of any and all state income tax collections paid to local governments (as defined in Section 10.4) pursuant to this Article shall be used, or set aside for use within a reasonable time, for public safety services (as defined in Section 10.2).

4.3. State income tax collections distributed to local governments pursuant to this Article shall be used only for those purposes set forth in Sections 4.1 and 4.2, except for local expenditure programs for a term not to exceed five (5) years as adopted by a majority of the voters to vote in an election in the respective city or county in which the program is to be adopted. At the end of the term of any local expenditure program, the use of state income tax collections shall revert to public safety and the public infrastructure, pursuant to Section 4.1, subject to adoption of additional local expenditure programs as provided in this Section.

4.4. Nothing in this Section shall affect the use of any city or county revenues received other than by way of this Article nor the use of any revenues received pursuant to the operation of Section 3 of this Article.

Section 5. <u>Phasing Schedule</u>

The ten percent and two percent shares of the state income tax collections to be paid to local governments pursuant to this Article shall be phased in by the state as follows:

In year one the state shall distribute to local governments one quarter of the percentage shares; one half in year two; three quarters in year three; and in year four and thereafter the full share; provided, however, nothing in this Section shall affect the immediate implementation of Section 3.

Section 6. <u>Spending Limitation Subject to Vote.</u>

Distributions received by cities and counties pursuant to this Article shall not be counted in calculations pursuant to any state expenditure limitations, including, but not limited to, Constitution of the State of California, Article XIII B; provided, however, distributions to a city or county may be made subject to any such limitations or any other limitations to the extent adopted from time to time by a majority of the voters to vote in an election in the respective city or county in which the limitation is proposed.

Section 7. <u>No State Control of Local Expenditures</u>.

The state shall not exercise direct or indirect control over the expenditure of the state income tax collections received by cities or counties pursuant to this Article.

Section 8. <u>Audit.</u>

On or before January 15 of each year, commencing the second January following enactment of this Article, the Controller of the State of California shall cause to be issued an independently audited report in conformance with generally accepted accounting principles setting forth state income tax collections, annual population estimates, distributions to cities and counties, and the details of the implementation of each and every provision of this Article by the State of California.

On or before January 15 of each year, commencing the second January following enactment of this Article, the official governing body of each local government (City Council or Board of Supervisors) shall cause to be issued an independently audited report in conformance with generally accepted accounting principles setting forth distribution amounts, categories of public expenditures pursuant to Section 4, and the details of implementation of each and every provision of this Article by the city or county. Notwithstanding any provision in this Article to the contrary, cities and/or counties may utilize distributions of state income tax collection to pay for such annual audits.

Section 9. Arbitration.

Allegations that the state has violated any provisions of this Article may where permitted by law, but are not required to, be submitted to binding arbitration pursuant to the procedures set forth in Title 9, California Code of Civil Procedure, as amended from time to time; provided, however, in no event shall the procedure provide for an arbitration panel with less than three arbiters unless agreed upon in advance by all parties to the arbitration.

An arbitration may be commenced by any city or county or by any not-for-profit organization organized and operating primarily to protect the concerns of state or local taxpayers. An arbitration shall be held in California in the respective city or county affected or in any city or county if it relates to a statewide issue.

Section 10. Definitions.

10.1. "State income tax collections" consist of any tax imposed now or in the future by the State of California on gross income, including, but not limited to, the personal income tax and the bank and corporate franchise tax. For purposes of calculating state income tax collections for any year, taxes collected shall be those finally due and payable in the prior calendar year, excluding estimated tax receipts but including any taxes for which extensions of time have been granted for payment and/or the filing of returns. The first tax collections pursuant to this Article shall be those for which a final return is due the calendar year following its enactment.

10.2. "Public safety services" may include, but is not limited to, police, fire, park, lifeguard and similar services.

10.3. "Public infrastructure" may include, but is not limited to, libraries, recreation centers, recycling centers, jails and other capital assets under generally accepted accounting practices as well as repairs and maintenance, pursuant to a duly adopted repair and maintenance program for each such asset based on its useful life as adopted pursuant to generally accepted accounting practices.

10.4. "Local governments" shall mean duly incorporated cities and counties of the State of California.

Section 11. Severability.

If any provision of this Article, or the application of any provision to any person or circumstance, shall be held invalid, the remainder of this Article, to the extent that it could be given effect, shall not be affected thereby, and to this end the provisions of this Article are severable.