

(1) *It is essential to assure the health, safety or education of pupils, or, as to any land use regulation, that the governmental body has a compelling interest in issuing or enacting the regulation or ordinance.*

(2) *It does not unduly burden or impede private schools or the parents of students attending private schools.*

(3) *It does not harass, injure or suppress private schools.*

(4) *It does not infringe on a parent or guardian's freedom to make decisions regarding the quality and content of their child's education, or whether the child attends a public or private school, including a scholarship-redeeming school.*

SECTION 6. Section 8.8 is added to Article IX of the Constitution, to read:

SEC. 8.8. If any portion of Section 8.5 of Article IX is enjoined from being utilized by parents to expand their choice in educational settings for their children at any class of schools, it shall not prevent Section 8.5 of Article IX from being operative for any other school or class of schools not explicitly covered by the judicial order.

Proposition 39: Text of Proposed Law

This initiative measure is submitted to the people of California in accordance with the provisions of Section 8 of Article II of the California Constitution.

This initiative measure amends provisions of the California Constitution and the Education Code; 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 LAW SMALLER CLASSES, SAFER SCHOOLS AND FINANCIAL ACCOUNTABILITY ACT

SECTION ONE. TITLE

This act shall be known as the Smaller Classes, Safer Schools and Financial Accountability Act.

SECTION TWO. FINDINGS AND DECLARATIONS

The people of the State of California find and declare as follows:

(a) Investing in education is crucial if we are to prepare our children for the 21st Century.

(b) We need to make sure our children have access to the learning tools of the 21st Century like computers and the Internet, but most California classrooms do not have access to these technologies.

(c) We need to build new classrooms to facilitate class size reduction, so our children can learn basic skills like reading and mathematics in an environment that ensures that California's commitment to class size reduction does not become an empty promise.

(d) We need to repair and rebuild our dilapidated schools to ensure that our children learn in a safe and secure environment.

(e) Students in public charter schools should be entitled to reasonable access to a safe and secure learning environment.

(f) We need to give local citizens and local parents the ability to build those classrooms by a 55 percent vote in local elections so each community can decide what is best for its children.

(g) We need to ensure accountability so that funds are spent prudently and only as directed by citizens of the community.

SECTION THREE. PURPOSE AND INTENT

In order to prepare our children for the 21st Century, to implement class size reduction, to ensure that our children learn in a secure and safe environment, and to ensure that school districts are accountable for prudent and responsible spending for school facilities, the people of the State of California do hereby enact the Smaller Classes, Safer Schools and Financial Accountability Act. This measure is intended to accomplish its purposes by amending the California Constitution and the California Education Code:

(a) To provide an exception to the limitation on ad valorem property taxes and the two-thirds vote requirement to allow school districts, community college districts, and county offices

of education to equip our schools for the 21st Century, to provide our children with smaller classes, and to ensure our children's safety by repairing, building, furnishing and equipping school facilities;

(b) To require school district boards, community college boards, and county offices of education to evaluate safety, class size reduction, and information technology needs in developing a list of specific projects to present to the voters;

(c) To ensure that before they vote, voters will be given a list of specific projects their bond money will be used for;

(d) To require an annual, independent financial audit of the proceeds from the sale of the school facilities bonds until all of the proceeds have been expended for the specified school facilities projects; and

(e) To ensure that the proceeds from the sale of school facilities bonds are used for specified school facilities projects only, and not for teacher and administrator salaries and other school operating expenses, by requiring an annual, independent performance audit to ensure that the funds have been expended on specific projects only.

SECTION FOUR

Section 1 of Article XIII A of the California Constitution is amended to read:

SEC. 1. (a) The maximum amount of any ad valorem tax on real property shall not exceed One percent (1%) of the full cash value of such property. The one percent (1%) tax to be collected by the counties and apportioned according to law to the districts within the counties.

(b) The limitation provided for in subdivision (a) shall not apply to ad valorem taxes or special assessments to pay the interest and redemption charges on ~~(1) any indebtedness of the following:~~

(1) ~~Indebtedness~~ approved by the voters prior to July 1, 1978. ~~or (2) any bonded~~

(2) ~~Bonded~~ indebtedness for the acquisition or improvement of real property approved on or after July 1, 1978, by two-thirds of the votes cast by the voters voting on the proposition.

(3) ~~Bonded indebtedness~~ incurred by a school district, community college district, or county office of education for the construction, reconstruction, rehabilitation, or replacement of school facilities, including the furnishing and equipping of school facilities, approved by 55 percent of the voters of the district or county, as appropriate, voting on the proposition on or after the effective date of the measure adding this paragraph. This paragraph shall apply only if the proposition approved by the voters and resulting in the bonded indebtedness includes all of the following accountability requirements:

(A) A requirement that the proceeds from the sale of the bonds be used only for the purposes specified in Article XIII A, Section 1(b)(3), and not for any other purpose, including teacher and administrator salaries and other school operating expenses.

(B) A list of the specific school facilities projects to be funded and certification that the school district board, community college

board, or county office of education has evaluated safety, class size reduction, and information technology needs in developing that list.

(C) A requirement that the school district board, community college board, or county office of education conduct an annual, independent performance audit to ensure that the funds have been expended only on the specific projects listed.

(D) A requirement that the school district board, community college board, or county office of education conduct an annual, independent financial audit of the proceeds from the sale of the bonds until all of those proceeds have been expended for the school facilities projects.

(c) Notwithstanding any other provisions of law or of this Constitution, school districts, community college districts, and county offices of education may levy a 55 percent vote ad valorem tax pursuant to subdivision (b).

SECTION FIVE

Section 18 of Article XVI of the California Constitution is amended to read:

SEC. 18. (a) No county, city, town, township, board of education, or school district, shall incur any indebtedness or liability in any manner or for any purpose exceeding in any year the income and revenue provided for such year, without the assent of two-thirds of the ~~qualified electors thereof~~, voters of the public entity voting at an election to be held for that purpose, except that with respect to any such public entity which is authorized to incur indebtedness for public school purposes, any proposition for the incurrence of indebtedness in the form of general obligation bonds for the purpose of repairing, reconstructing or replacing public school buildings determined, in the manner prescribed by law, to be structurally unsafe for school use, shall be adopted upon the approval of a majority of the ~~qualified electors~~ voters of the public entity voting on the proposition at such election; nor unless before or at the time of incurring such indebtedness provision shall be made for the collection of an annual tax sufficient to pay the interest on such indebtedness as it falls due, and ~~also provision to constitute provide for a sinking fund for the payment of the principal thereof, on or before maturity, which shall not exceed forty years from the time of contracting the same provided, however, anything to the contrary herein notwithstanding, when indebtedness.~~

(b) Notwithstanding subdivision (a), on or after the effective date of the measure adding this subdivision, in the case of any school district, community college district, or county office of education, any proposition for the incurrence of indebtedness in the form of general obligation bonds for the construction, reconstruction, rehabilitation, or replacement of school facilities, including the furnishing and equipping of school facilities, or the acquisition or lease of real property for school facilities, shall be adopted upon the approval of 55 percent of the voters of the district or county, as appropriate, voting on the proposition at an election. This subdivision shall apply only to a proposition for the incurrence of indebtedness in the form of general obligation bonds for the purposes specified in this subdivision if the proposition meets all of the accountability requirements of paragraph (3) of subdivision (b) of Section 1 of Article XIII A.

(c) When two or more propositions for incurring any indebtedness or liability are submitted at the same election, the votes cast for and against each proposition shall be counted separately, and when two-thirds or a majority or 55 percent of the ~~qualified electors~~ voters, as the case may be, voting on any one of ~~such~~ those propositions, vote in favor thereof, ~~such~~ the proposition shall be deemed adopted.

SECTION SIX

Section 47614 of the Education Code is amended to read:

47614. ~~A school district in which a charter school operates shall permit a charter school to use, at no charge, facilities not currently being used by the school district for instructional or administrative purposes, or that have not been historically used for rental purposes provided the charter school shall be responsible for reasonable maintenance of those facilities.~~

(a) The intent of the people in amending Section 47614 is that public school facilities should be shared fairly among all public school pupils, including those in charter schools.

(b) Each school district shall make available, to each charter school operating in the school district, facilities sufficient for the charter school to accommodate all of the charter school's in-district students in conditions reasonably equivalent to those in which the students would be accommodated if they were attending other public schools of the district. Facilities provided shall be contiguous, furnished, and equipped, and shall remain the property of the school district. The school district shall make reasonable efforts to provide the charter school with facilities near to where the charter school wishes to locate, and shall not move the charter school unnecessarily.

(1) The school district may charge the charter school a pro rata share (based on the ratio of space allocated by the school district to the charter school divided by the total space of the district) of those school district facilities costs which the school district pays for with unrestricted general fund revenues. The charter school shall not be otherwise charged for use of the facilities. No school district shall be required to use unrestricted general fund revenues to rent, buy, or lease facilities for charter school students.

(2) Each year each charter school desiring facilities from a school district in which it is operating shall provide the school district with a reasonable projection of the charter school's average daily classroom attendance by in-district students for the following year. The district shall allocate facilities to the charter school for that following year based upon this projection. If the charter school, during that following year, generates less average daily classroom attendance by in-district students than it projected, the charter school shall reimburse the district for the over-allocated space at rates to be set by the State Board of Education.

(3) Each school district's responsibilities under this section shall take effect three years from the effective date of the measure which added this subparagraph, or if the school district passes a school bond measure prior to that time on the first day of July next following such passage.

(4) Facilities requests based upon projections of fewer than 80 units of average daily classroom attendance for the year may be denied by the school district.

(5) The term "operating," as used in this section, shall mean either currently providing public education to in-district students, or having identified at least 80 in-district students who are meaningfully interested in enrolling in the charter school for the following year.

(6) The State Department of Education shall propose, and the State Board of Education may adopt, regulations implementing this subdivision, including but not limited to defining the terms "average daily classroom attendance," "conditions reasonably equivalent," "in-district students," "facilities costs," as well as defining the procedures and establishing timelines for the request for, reimbursement for, and provision of, facilities.

SECTION SEVEN. CONFORMITY

The Legislature shall conform all applicable laws to this act. Until the Legislature has done so, any statutes that would be affected by this act shall be deemed to have been conformed with the 55 percent vote requirements of this act.

SECTION EIGHT. SEVERABILITY

If any of the provisions of this measure or the applicability of any provision of this measure to any person or circumstances shall be found to be unconstitutional or otherwise invalid, such finding shall not affect the remaining provisions or applications of this measure to other persons or circumstances, and to that extent the provisions of this measure are deemed to be severable.

SECTION NINE. AMENDMENT

Section 6 of this measure may be amended to further its purpose by a bill passed by a majority of the membership of both houses of the Legislature and signed by the Governor, provided that at least 14 days prior to passage in each house, copies of the bill in final form shall be made available by the clerk of each house to the public and the news media.

SECTION TEN. LIBERAL CONSTRUCTION

The provisions of this act shall be liberally construed to effectuate its purposes.