cbp CALIFORNIA BUDGET PROJECT

budget brief

SEPTEMBER 2010

# PROPOSITION 25: WILL A "MAJORITY VOTE BUDGET" HELP SOLVE CALIFORNIA'S BUDGET PROBLEMS?

**Proposition 25, which will appear on the November 2010 ballot, would reduce the legislative vote requirement for passage of the state budget from two-thirds to a simple majority. Proposition 25 would also reduce the legislative vote required for bills – other than tax increases – that appropriate money, are part of a budget agreement, and that take effect immediately from two-thirds to a majority vote.[1] This *Budget Brief* reviews the provisions of Proposition 25 and the policy issues raised by this measure. The California Budget Project (CBP) neither supports nor opposes Proposition 25.**

## What Would Proposition 25 Do?

Proposition 25 would reduce the number of votes required for the Legislature to pass a budget bill and budget-related legislation, other than tax increases. Specifically, Proposition 25 would:

- Reduce the legislative vote requirement for passage of the annual state budget from two-thirds to a simple majority. If approved by the voters, Proposition 25 would reduce the number of votes required to pass a budget and budget-related legislation in the State Senate from 27 to 21 and reduce the number of votes required in the State Assembly from 54 to 41.[2]
- Reduce the vote requirement for budget-related bills that also appropriate funds and take effect immediately from two-thirds to a simple majority. Proposition 25 requires the measures that could be enacted by majority vote to be identified in the budget act. Under current law, these measures – so-called "trailer bills" – require a two-thirds vote if they are to take effect immediately, if they increase taxes, or if they appropriate funds for purposes other than public education.[3] The reduced vote requirement would not apply to measures that increase state tax revenues. Tax increases would continue to require a two-thirds vote of each house of the Legislature for approval.
- Require members of the Legislature to permanently forfeit their pay and reimbursement for travel and living expenses – so-called per diem payments – for each day after June 15 that a budget is not passed and sent to the Governor. Under current law, legislators do not receive a paycheck or per diem payments after July 1 unless a signed budget is in place. However, these amounts are paid in full once the Governor signs a budget for that fiscal year.

Proposition 25 would not change the ability of the Governor to eliminate or reduce any appropriation using a line-item veto.

## Background

California is one of just three states to require a supermajority vote of its legislature to pass a budget under all circumstances.[4] California is one of just 12 states to require a supermajority vote for any state tax increase and the only state to require a supermajority vote to approve both a budget and any state tax increase.[5] While the supermajority vote requirement for taxes is

## The Rules Governing the Budget Process Are Established in the State's Constitution

California's Constitution, which can only be changed by a vote of the people, establishes the framework that governs the budget process, including the legislative vote requirements for bills that increase taxes or spend state revenues. The Constitution also limits state spending and the use of certain revenues and outlines the fiscal relationship between the state and local governments. Key provisions of the Constitution provide that:

- The Governor shall submit a budget to the Legislature within the first 10 days of the calendar year. The Governor's proposed budget must include an itemized statement of recommended expenditures and estimated revenues and, if recommended expenditures exceed estimated revenues, the Governor "shall recommend the sources from which the additional revenues should be provided."
- The Legislature shall pass a budget bill by midnight on June 15 and cannot send the Governor a measure appropriating funds for the budget year until the budget is passed, with the exception of measures appropriating legislators' salaries or addressing emergencies.
- Appropriations from the state's General Fund for any purpose other than public schools must be approved by a two-thirds vote of the Legislature.
- Most legislation, including bills that implement a budget agreement, that takes effect immediately must be passed by a two-thirds vote of the Legislature.[7]
- The Legislature may not pass, and the Governor may not sign, a budget bill that would appropriate from the General Fund an amount that "exceeds General Fund revenues for that fiscal year estimated as of the date of the budget bill's passage."
- Changes enacted for the purpose of increasing state tax revenues must be approved by a two-thirds vote of the Legislature.
- Appropriations from the proceeds of taxes are limited to the amount spent in the prior year adjusted for population and the cost of living, as defined.
- The Governor may reduce or eliminate one or more items of appropriation while approving other portions of a bill (the so-called "line-item" veto). A two-thirds vote of the Legislature is required to override the Governor's veto.
- Each year, the state must transfer 3 percent of estimated General Fund revenues to a Budget Stabilization Account until the balance in that account reaches the greater of 5 percent of General Fund revenues for the year or $8.0 billion. Transfers to the Account may only be suspended by an executive order issued by the Governor.

relatively new – added to the state's Constitution by Proposition 13 of 1978 – the supermajority vote requirement for passage of a spending plan dates back to a 1933 ballot measure.[6] The original supermajority vote only applied in years when spending rose by more than 5 percent. In 1962, the requirement was extended to all budgets.

## How Might Proposition 25 Affect Budget Outcomes?

The academic literature on the impact of supermajority vote requirements is limited and somewhat contradictory. For example:

- A 1998 report by the California Citizens Budget Commission reviewed the impact of budget impasses on state spending and concluded: "A small group of legislators can as easily withhold the votes necessary for a two-thirds majority to obtain an increase in spending on their favorite programs as to obtain a decrease in spending."[8]
- A 2008 Public Policy Institute of California study found that the actual impact of supermajority voting rules may be less important than they otherwise might be because California has had divided government for most of the past 30 years, noting that since 1978, "Except for the last two years of the Jerry Brown administration and the five recall-interrupted years of the Gray Davis administration,

California has had Republican governors who have been more fiscally conservative than the Democratic majorities in the legislature."[9]

- According to the Legislative Analyst's Office, "the extent of these changes would depend on a number of factors – including the state's financial circumstances, the composition of the Legislature, and its future actions."[10]

Some observers note that Proposition 25 could result in more "all cuts" approaches to addressing the state's chronic budget shortfalls by reducing the vote requirement for a spending plan and spending-related legislation, but not the requirement for tax increases. Others argue that in bad budget years, lawmakers will shift the cost of supporting many services from taxes to fees, which can be imposed or increased by majority vote.

## What Happens Now When a Budget Is Delayed?

Proponents argue that reducing the vote requirement will allow the Legislature to pass an "on time" budget. The Legislature has missed the June 15 deadline in 23 of the last 25 years, including a 93-day delay in 2008 and a longer delay in 2010.[11] The State Constitution limits the state's ability to make certain payments in the absence of an appropriation, which typically is provided through the budget act.[12] The range of payments that can, and cannot, be paid in the absence of a budget has evolved over time through legislative actions – continuous appropriations can be paid in the absence of a budget – and court decisions, such as whether state employees must be paid and the amount they receive. In the absence of a signed budget, the State Controller *can* pay:

- Appropriations authorized in prior years' budgets;
- Constitutionally required payments, such as debt service and "revenue limit" allocations to schools (revenue limits provide general purpose support to schools);
- Amounts required by federal law, including Supplemental Security Income/State Supplementary Payment (SSI/SSP) grant payments, payments to In-Home Supportive Services providers, the salaries of state workers covered by the federal Fair Labor Standards Act, and payments to some Medi-Cal providers; and
- Amounts authorized by continuous appropriations, such as income tax refunds and CalWORKs grants.

In the absence of a budget, the Controller *cannot* pay:

- Vendors for services provided on or after July 1;
- Salaries and per diem of state elected officials and their appointed staff;
- Amounts due community colleges; school districts for categorical programs, including child care; local governments; and other entities not covered by a specific authorization.[13]

Proposition 25 does not change the range of payments that may and may not be paid. Legislators, however, would permanently forfeit their pay and per diem payments for each day after June 15 until a budget is passed and sent to the Governor. Lawmakers would, however, receive their pay and per diem if they pass a budget by June 15, but that spending plan is vetoed by the Governor.

## Will Proposition 25 Really Produce "On Time" Budgets?

While Proposition 25 makes it easier for the Legislature to approve a spending plan, it does not change the vote requirement for tax increases or the governor's ability to veto a budget passed by the legislature. Thus, Proposition 25 may or may not increase the likelihood that a signed spending plan is in place by the July 1 start of a new fiscal year. Proposition 25 may speed enactment of a budget in years when there are disagreements over how to *spend* available revenues between the majority and minority parties in the Legislature. Proposition 25 will have less, or no, impact in years when the budget is delayed due to disagreements over whether a tax increase is needed to close a budget gap. Similarly, Proposition 25 may have little or no effect in years when there are significant disagreements over spending priorities between the governor and the majority party of either house of the Legislature, since the governor would retain his or her power to veto a budget bill.[14]

Some observers argue that recent years' delays have more often been caused by an inability to reach agreement over tax increases than by disagreements over spending priorities. While California's budget delays are more frequent and often longer than those of states that require a majority vote for a budget, some majority vote states – such as New York – also experience budget delays.

## Should Lawmakers Lose Their Pay?

Some argue that prohibiting lawmakers from collecting pay and living expense reimbursements when the budget is delayed could lead lawmakers to vote for spending plans that they otherwise would not support simply to ensure they receive a paycheck. Others note that this provision is likely to have a minimal impact since Proposition 25 only requires the legislature to forfeit pay until a budget is passed, not signed. If the Legislature passes a budget, even if the budget bill is subsequently vetoed by the governor, they would have met their obligation and would continue to be paid.

## How Would Proposition 25 Affect Measures That Increase Revenues?

Proposition 25 does not change the two-thirds vote requirement for "changes in state taxes enacted for the purpose of increasing revenues." The legislature could, as under current law, impose or increase fees by a majority vote. Proposition 25, unlike current law, would allow a bill that increased fees to take effect immediately.[15] In "bad" budget years, lawmakers could increase fees to help close a budget gap; however, their ability to do so would be limited by current restrictions on the use of the proceeds of fees.[16] These restrictions severely limit the use of fees for many public programs, such as K-12 education or corrections. Tax revenues, in contrast, have no such restrictions and generally do not reflect the amount paid or benefits received by individual taxpayers. In sum, while opponents may be correct in arguing that Proposition 25 would result in a greater reliance on fees to help close budget shortfalls, current constitutional limitations impose significant limits on the use of fees.

## Is a Majority Vote Budget the First Step or the Last Stop for Budget Reform?

Supporters of Proposition 25 argue that allowing budgets to be passed by majority vote will increase accountability and end voters' frustration with California's repeated budget stalemates. Some supporters of Proposition 25 argue that by doing so, voters' trust in the legislature will increase and that trust will lead to additional reforms, such as changes to the vote requirements for tax increases or lengthening lawmakers' terms in office. Other supporters argue that a "majority vote budget" is desirable in and of itself and that further changes are not necessary and they specifically oppose reducing the vote requirement for measures that would increase taxes. Still others note that voters are unlikely to approve a change to the rules governing tax increases unless it is "packaged" with provisions that garner more support, such as passage of the budget by majority vote and denying lawmakers' pay when the budget is late. As a result of the lack of consensus over what changes to California's fiscal and governance systems are needed, the impact of Proposition 25 on the likelihood such measures might succeed is speculative.

## At the End of the Day: The Process Is Not the Problem, The Problem Is the Problem

Changes to the rules governing the budget process will not produce a balanced budget. Regardless of the outcome of Proposition 25, California will continue to face shortfalls for the foreseeable future according to the most recent forecasts prepared by the Department of Finance and the Legislative Analyst's Office.[17] Observers note that proponents' claims regarding the benefits of Proposition 25 are likely overstated and that the magnitude of California's budget problems will make it difficult for lawmakers to reach agreement on spending plans that move the budget towards balance regardless of the vote requirement for passage of a budget and budget-related legislation.

## Proponents Argue

Proponents argue, "Prop. 25 is a common sense solution to California's budget disaster, with legislators paying the price for late budgets, not taxpayers. Prop. 25 is a simple budget reform that breaks legislative gridlock by allowing a simple majority of legislators to approve the budget – just like in 47 other states. Meanwhile, Prop. 25 preserves the 2/3 vote required to raise taxes."[18] Proponents also argue that Proposition 25 will prevent a small minority of lawmakers from "leveraging" their power over approval of the budget to force policy changes that have little or no impact on the budget.

## Opponents Argue

Opponents argue that Proposition 25 will allow the Legislature to pass taxes and fees by majority vote by including the increases in the budget, and that legislators will make up for any forfeited salary by increasing other perks as part of the budget. Opponents argue, "Proposition 25 allows politicians to put new hidden taxes disguised as fees into budget-related bills, which eliminates voters' constitutional right to use the referendum process to reject these hidden taxes or other bad laws at the ballot."[19]

## Conclusion

Proposition 25 would significantly change the constitutional framework for the state's budget process by changing the number of votes required for passage of the budget. The provisions of Proposition 25 are "process" changes. As such, they will not directly affect outcomes, which will depend on the actions of future legislatures. As the National Conference of State Legislatures notes, "Ultimately, however, it is important to note that difficult budget decisions are probably more likely to be an obstacle to getting the budget passed on time than the number of votes required."[20]

*Raúl Macías and Jean Ross prepared this* Budget Brief. *The California Budget Project (CBP) neither supports nor opposes Proposition 25. This* Budget Brief *is designed to help voters reach an informed decision based on the merits of the issues. The CBP was founded in 1994 to provide Californians with a source of timely, objective, and accessible expertise on state fiscal and economic policy issues. The CBP engages in independent fiscal and policy analysis and public education with the goal of improving public policies affecting the economic and social well-being of low- and middle-income Californians. General operating support for the CBP is provided by foundation grants, subscriptions, and individual contributions. Please visit the CBP's website at www.cbp.org.*

## ENDNOTES

1 Legislation that is not passed as an urgency statute generally takes effect the following January.

2 The two-thirds vote requirement and the majority vote requirement that would replace it both apply to the "membership" of each house, not to the current number of legislators, so the number of votes necessary for passage does not change when there are vacancies.

3 The reduced vote requirement would apply to bills that "take effect immediately upon being signed by the Governor or upon a date specified in the legislation."

4 An additional six states require a supermajority vote under limited circumstances. States with limited supermajority vote requirements typically impose them when the legislature is late in passing the budget or when the state's expenditure limit is exceeded. National Conference of State Legislatures, *Supermajority Vote Requirements To Pass the Budget* (Updated October 2008), downloaded from http://www.ncsl.org/default.aspx?tabid=12654 on September 22, 2010.

5 National Conference of State Legislatures, *Legislative Supermajority To Raise Taxes – 2008* (no date), downloaded from http://www.ncsl.org/default.aspx?tabid=17421 on September 22, 2010.

6 Bruce Cain and George Mackenzie, *Are California's Fiscal Constraints Institutional or Political?* (Public Policy Institute of California: December 2008), p. 6.

7 Measures that call elections and that reduce state tax revenues – so-called "tax levies" – take effect immediately and can be approved by majority vote.

8 California Citizens Budget Commission, *A 21st Century Budget Process for California* (Center for Governmental Studies: 1998), p. 48.

9 Bruce Cain and George Mackenzie, *Are California's Fiscal Constraints Institutional or Political?* (Public Policy Institute of California: December 2008), p. 10.

10 Legislative Analyst's Office, "Changes Legislative Vote Requirement To Pass Budget and Budget-Related Legislation From Two-Thirds to a Simple Majority. Retains Two-Thirds Vote Requirement for Taxes. Initiative Constitutional Amendment. Analysis by the Legislative Analyst," in Secretary of State's Office, *California General Election Tuesday, November 2, 2010: Official Voter Information Guide,* p. 53, downloaded from http://voterguide.sos.ca.gov/pdf/english/complete-vig.pdf on September 21, 2010.

11 The state has had budget agreements signed by the Governor before the start of the fiscal year in six of the last 25 years. Department of Finance, *Chart P: Historical Data Dates For May Revision and Budget Bill Enactment,* downloaded from http://www.dof.ca.gov/budgeting/budget_faqs/information/documents/CHART-p.pdf on July 19, 2010.

12 California State Controller John Chiang, *Letter to Governor Schwarzenegger and Legislative Leaders* (June 15, 2010), downloaded from http://sco.ca.gov/Files-EO/Controller/06-15-10letter.pdf on September 21, 2010.

13 California State Controller John Chiang, *What the State Controller Can and Cannot Pay Without an Enacted State Budget* (September 2010), downloaded from http://sco.ca.gov/September_2010_payments.html on September 21, 2010.

14 A two-thirds vote would still be required to override a Governor's veto.

15 Proposition 26, which will also appear on the November 2010 ballot, would impose a two-thirds requirement on a broader range of fees. See California Budget Project, *Proposition 26: Should the State and Local Governments Be Required To Meet Higher Voting Thresholds To Raise Revenues?* (September 2010). Under current law, a two-thirds vote would be required in order for a bill that increased fees to take effect immediately.

16 Revenues raised by fees, unlike taxes, may only be used for purposes directly related to the service or activity for which the fee was imposed.

17 Department of Finance, *General Fund Multi-Year Projection at 2010-11 May Revision,* downloaded from http://www.dof.ca.gov/reports_and_periodicals/documents/General_Fund_Multi-Year_Projection_at_2010-11_May_Revision.pdf on September 8, 2010 and Legislative Analyst's Office, *The 2010-11 Budget: California's Fiscal Outlook* (November 2009), p. 6, downloaded from http://www.lao.ca.gov/2009/bud/fiscal_outlook/fiscal_outlook_111809.pdf on September 8, 2010.

18 "Argument in Favor of Proposition 25," in Secretary of State's Office, *California General Election Tuesday, November 2, 2010: Official Voter Information Guide,* p. 54, downloaded from http://voterguide.sos.ca.gov/pdf/english/complete-vig.pdf on September 21, 2010.

19 "Argument Against Proposition 25," in Secretary of State's Office, *California General Election Tuesday, November 2, 2010: Official Voter Information Guide,* p. 55, downloaded from http://voterguide.sos.ca.gov/pdf/english/complete-vig.pdf on September 21, 2010.

20 National Conference of State Legislatures, *Supermajority Vote Requirements To Pass the Budget* (Updated October 2008), downloaded from http://www.ncsl.org/default.aspx?tabid=12654 on September 22, 2010.