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WHAT WOULD PROPOSITION 56 MEAN FOR THE STATE'S BUDGET PROCESS?

INTRODUCTION

Proposition 56, which will appear on the March ballot, reduces the vote requirement for passage of the state budget. Specifically, Proposition 56 amends the state's Constitution and related statutes to:

- Reduce the legislative vote requirement for passage of the state budget and related tax and policy measures from two-thirds to 55 percent.
- Require 25 percent of General Fund revenues in excess of the amount needed to support a "current services" budget to be deposited in a budget reserve. Funds in the reserve could only be used when revenues are insufficient to fund current service levels or to respond to an emergency declared by the Governor.
- Require basic information on the budget to be included in the ballot pamphlet mailed to California voters and the establishment of a website with information on legislators' votes on the budget and related measures.
- Prohibit the payment of the salaries and expenses of legislators and the Governor if the budget is not passed by the June 15 constitutional deadline.
- Require the Legislature to remain in session and prohibit the Legislature from acting on measures other than the budget after the June 15 constitutional deadline if a budget has not been passed.

WHAT DOES THE CONSTITUTION CURRENTLY SAY ABOUT THE BUDGET PROCESS?

The framework of the budget process is established in the state's Constitution. Specifically, the Constitution provides 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 exceeded estimated revenues, the Governor "shall recommend the sources from which the additional revenues should be provided."[1]
- 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 passed by a two-thirds vote of the Legislature.
- Measures passed for the purpose of increasing state tax revenues must be passed by a two-thirds vote of the Legislature.
- The Legislature shall establish a prudent state reserve fund.

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- The Governor may reduce or eliminate any appropriation, while approving other portions of a bill. This authority is called the line-item veto.
- Appropriations from the proceeds of state taxes are subject to the State Appropriations Limit (SAL). The SAL is adjusted annually based on changes in the state's population and the growth in per capita personal income.[2]

Proposition 56 does not change the Governor's ability to line-item veto appropriations and makes a very minor technical change to the SAL affecting the treatment of contributions to the state's reserve (see below).

What Would Proposition 56 Do?

Vote Requirement for Passing a Budget

Proposition 56 would reduce the number of votes needed for the Legislature to pass a budget. Currently, the budget must be approved by 27 of the 40 members of the State Senate and 54 of the 80 members of the State Assembly. If Proposition 56 is enacted, 22 votes would be needed for the State Senate to pass a budget, while 44 votes would be needed to pass a budget in the State Assembly. In other words, Proposition 56 would reduce, but not eliminate, the supermajority vote for passing a budget.

The two-thirds vote requirement was added to the state's Constitution in 1879.[3] California is one of only three states that requires a supermajority vote of the Legislature to pass a budget under any circumstance.[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 (Table 1). If Proposition 56 were enacted, California would still impose a stricter standard for the passage of a budget than 47 other states.

Table 1: States with Supermajority Vote Requirements

Broad Supermajority Vote Requirements	
Arkansas	Three-fourths vote for appropriations for any purpose other than education, highways, or paying down the state debt.
California	Two-thirds vote for appropriations for purposes other than public schools.
Rhode Island	Two-thirds vote for appropriations for local or private purposes.
Supermajority Vote Under Limited Circumstances	
Alaska	Simple majority unless expenditures exceed the appropriation level in the prior year's budget and a withdrawal from the state's reserve is needed to make up the difference, in which case a three-fourths vote is needed.
Connecticut	Simple majority unless the state's expenditure limit is exceeded, in which case a three-fifths vote is needed.
Hawaii	Simple majority unless the state's expenditure limit is exceeded, in which case a two-thirds vote is needed.
Illinois	Simple majority unless the state's June 1 deadline for passing a budget is missed, in which case a three-fifths vote is needed.
Maine	Simple majority unless the budget is not passed before April 1, in which case the budget must be passed as an emergency measure, requiring a two-thirds vote.
Nebraska	Simple majority unless the budget is not passed at least 90 days before the beginning of the new fiscal year, in which case a two-thirds vote is needed.

Source: National Conference of State Legislatures

The reduced vote requirement would also apply to measures needed to implement the budget. 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. Some trailer bills are enacted by majority vote, but these measures generally do not take effect until January 1 of the next calendar year.[5] Proposition 56 requires measures qualifying for the reduced vote requirement to be identified in the budget act.

Vote Requirement for Passing a Tax Increase

Proposition 56 would reduce the number of votes needed for the Legislature to enact tax increases related to the budget. The reduced vote requirement would only apply to tax measures identified in the budget act. Any other measure that increased state tax revenues would continue to require a two-thirds vote. Currently, any "changes in state taxes enacted for the purpose of increasing revenues collected pursuant thereto" are required to be passed by a two-thirds vote of the Legislature.[6] However, measures that reduce state tax revenues may be enacted by a majority vote of the Legislature.

The two-thirds vote requirement for tax increases was added to the state's Constitution by Proposition 13 of 1978, which also limited property tax rates and changed the method for assessing the value of property for tax purposes. Current law requires tax increases to be approved by 27 of the 40 members of the State Senate and 54 of the 80 members of the State Assembly. If Proposition 56 is enacted, 22 votes would be needed for the State Senate to pass a tax increase, while 44 votes would be needed for the State Assembly to pass a tax increase. In other words, Proposition 56 would reduce, but not eliminate, the supermajority vote for passage of some, but not all, tax measures.

Eleven states, including California, require at least a two-thirds vote to pass any state tax increase.[7] An additional three states require a supermajority vote for some, but not all, state taxes. Arkansas requires a three-fourths vote to raise any tax except sales or alcohol taxes. Florida requires a three-fifths vote to increase corporate income taxes. Michigan requires a three-fourths vote only for state property tax increases. If Proposition 56 is enacted, California would still be one of only 11 states to require a supermajority vote to pass any state tax increase.

Budget Reserve Requirement

The state Constitution currently specifies that, "The Legislature shall establish a prudent state reserve fund in such amount as it shall deem reasonable and necessary."[8] However, the Constitution does not require a minimum reserve, or specify the conditions under which contributions must be made to the reserve. Also, under current law withdrawals from the reserve can be used for any purpose.

Proposition 56 requires the Legislature to make annual contributions of at least 25 percent of any General Fund revenues that exceed the amount needed to fund current service levels to the state's "Prudent State Reserve Fund" until the balance in that fund equals 5 percent or more of the General Fund expenditures for the prior fiscal year. Reserve funds could only be used in years when General Fund revenues are insufficient to fund "current service" level expenditures or to address an emergency declared by the Governor. The measure states that "Appropriations from the fund may be used only for these purposes and may not be used to increase expenditures."

Proposition 56 also amends the Constitution to specify that contributions to the reserve are counted toward the State Appropriations Limit in the year funds are expended. Under current law, funds are counted toward the State Appropriations Limit in the year in which they are deposited into the reserve.

Forty-seven states have some type of budget reserve requirement, including California.[9] Some requirements, such as California's, are minimal and involve no minimum contribution and impose no requirements on the use of reserve funds. Other states require minimum contributions to the reserve and limit the circumstances under which reserve funds could be used.

Proposition 56 uses the concept of a current services budget to determine when contributions to the reserve would be required and when funds could be spent from the reserve. The measure defines current services as the "levels of service as of June 30 of the prior fiscal year necessary to meet the constitutional, statutory, and contractual obligations of the state adjusted for population and cost of living as provided in Section 8 of Article XIII B of the California Constitution as of the effective date of this measure." This definition would include amounts needed to fund the state's ongoing statutory and constitutional requirements, but would exclude funding that was one-time in nature or was not needed to fulfill statutory, constitutional, or contractual obligations.

Consequences of a Late Budget

Proposition 56 imposes several restrictions on the actions of the Legislature if it has not passed a budget bill by the June 15 constitutional deadline. The provisions are intended to encourage the Legislature to pass an "on-time" budget. If the Legislature fails to pass a budget by the June 15 deadline, Proposition 56:

- Requires the Legislature to remain in session and prohibits the Legislature from acting on any other measure, except for emergency bills recommended by the Governor, until a budget is passed.
- Requires legislators and the Governor to permanently forfeit payments for their salaries and expenses until the Legislature passes a budget bill.
- Specifies that the limits on the Legislature's actions and limits on the payment of the Governor and legislators shall remain in effect even if the Governor vetoes a budget bill until a budget is passed and signed into law.

Currently, the state Constitution's only limit on the actions of the Legislature in the event the June 15 deadline is not met is the restriction on the range of bills that can be sent to the Governor. Under current law, the Legislature can continue to meet or can recess, and can act on measures other than the budget.

One or both houses of the Legislature have failed to meet the constitutional June 15 deadline in 23 of the last 27 years.[10] The last time the deadline was met was in 1986, when the Legislature approved a 1986-87 spending plan on June 12. In 18 of the last 27 years, the Governor has not signed the budget prior to the July 1 start of the new fiscal year.

Under current law, the state is prohibited from making certain types of expenditures if a budget is not enacted by the July 1 start of the new fiscal year. Proposition 56 does not change current law governing the range of payments that may and may not be paid. The range of prohibited expenditures has varied over time based on various legal rulings. During the 2003 budget stalemate, the State Controller stopped making payments for salaries and benefits of appointed, exempt, and legislative employees; non-payroll expenses of the state's trial courts; non-payroll expenses of the University of California and California State University systems; certain education expenses, including child development; certain transportation programs; mental health program costs that were not part of the Medi-Cal program; the state's share of most social service program costs; and financial aid payments to students.[11]

Information on the Budget

Proposition 56 requires a brief summary of how the state spends its money to be included in the ballot pamphlet mailed to state voters. The summary would include the address of a website that would post the voting records of legislators on the budget and related measures, including tax measures.

This information is currently available, but is not easily accessible to the public. For example, the Department of Finance's website includes information on the budget, but this information is not provided directly to voters. Similarly, votes on individual measures are available on the websites of the Senate and Assembly; however, there is no easy way to identify votes on the budget or related measures.

The Fiscal Impact of Proposition 56

Proposition 56's changes to the vote requirements for passage of the budget or tax measures would not have a direct impact on state spending or revenues. The impact of these changes would depend on the actions of future legislatures. The measure's requirement that certain amounts be set aside in a state reserve would limit the amount of resources available for spending in years in which revenues exceed the amount needed to fund current services, thus triggering contributions to the reserve.

There would be minor costs associated with the preparation of the budget summary and website and minor savings in years when the budget is delayed, attributable to the denial of salary and expense payments for legislators and the Governor.

What Does the Research Show?

There is very little empirical research on the impact of supermajority vote requirements on state fiscal policymaking. The research that is available suggests that supermajority vote requirements may serve to increase, rather than decrease, spending and do not necessarily result in lower taxes. A 1998 report by the US General Accounting Office compared tax actions taken by states between 1988 and 1997.[12] The report found that:

> "States with broadly applied supermajority rules raised revenue less frequently on average than other supermajority states or nonsupermajority states; but on average, the estimated first-year revenue effects of their changes were larger."

In other words, states with supermajority vote requirements raised taxes less frequently than majority vote states, but enacted larger increases when they did raise taxes.

The California Citizens Budget Commission, a nonprofit, nonpartisan "blue ribbon" commission formed to recommend changes to California's budget process, examined the impact of the two-thirds vote requirement for passage of the budget.[13] The Commission reviewed the impact of budget impasses on state spending between 1969 and 1994 and concluded that:

> "Although some have sought to justify California's two-thirds vote requirement as a way to prevent increases in state spending, the supermajority requirement has just as often actually increased state spending. A small group of legislators can just as easily withhold the votes necessary for a two-thirds majority to obtain an increase in spending on favorite programs as to obtain a decrease."

The Citizens Budget Commission also noted that:

> "The supermajority vote requirement for the budget also obscures who is responsible for budget decisions. As long as a supermajority vote is required to pass and send the budget to the Governor, the public has difficulty determining which legislators or political parties are responsible for either creating or resolving a fiscal imbalance."

The Commission recommended that the Legislature be given the power to adopt a budget by majority vote and that the vote for creating new tax credits, exemptions, and deductions should be the same as that for modifying or repealing tax breaks.[14]

The California Constitution Revision Commission, a "blue ribbon" body created by statute, examined the state's budget process and found that:

> "In theory a two-thirds vote should force a compromise between the majority and minority parties. For a number of years, the system worked in this manner. Recently, however, it has permitted those who have specific interests, which may or may not be related to the budget, to delay passage of the budget by leveraging their issue into the budget debate."[15]

The California Constitution Revision Commission recommended reducing the vote requirement or passage of a budget to a simple majority, while retaining the supermajority requirement for tax increases.

The California Budget Project (CBP) compared tax levels in states with supermajority vote requirements to those in states with majority vote requirements in order to assess whether supermajority vote requirements have a significant relationship with state tax levels.[16] This analysis compared 2003 tax levels for alcohol and tobacco and 2001-02 tax collections as a percentage of income for sales, personal income, and corporate income taxes (Table 2).

This analysis found that states with supermajority vote requirements had lower cigarette, liquor, beer, wine, and personal income tax levels. Corporate income tax burdens were nearly identical in supermajority and simply majority states. Simple majority states had lower sales tax levels. However, the variation in tax burdens within the two groups of states exceeded that between the two groups.

Table 2: Does a Supermajority Requirement Affect Tax Levels?

	Supermajority Vote	Simple Majority Vote
Average Cigarette Tax (Dollars per Pack)	$ 0.62	$ 0.71
Average Liquor Excise Tax (Dollars per Gallon)	$ 2.40	$ 2.54
Average Beer Tax (Dollars per Gallon)	$ 0.22	$ 0.27
Average Wine Tax (Dollars per Gallon)	$ 0.58	$ 0.76
Average General Sales Tax Collections as a Percentage of Personal Income	2.16%	2.02%
Average Individual Income Tax Collections as a Percentage of Personal Income	1.77%	2.09%
Average Corporate Income Tax Collections as a Percentage of Personal Income	0.29%	0.30%

Source: CBP analysis of Census Bureau and Federation of Tax Administrators data. States with selective supermajority vote requirements are treated as majority vote for taxes that may be increased by a majority and as supermajority vote states for taxes that require a supermajority.

For example, Oregon – a supermajority vote state – had the second highest income tax burden in the country in the 2001-02 tax year, while four simple majority states had no personal income tax.

The academic literature on the impact of supermajority vote requirements is limited and somewhat contradictory. Researchers note that it is difficult to separate the influence of supermajority vote requirements from other institutional factors, such as tax and spending limits, the presence or absence of a gubernatorial line-item veto, or whether a single party controls both the legislature and the governorship. Moreover, since Proposition 56 would leave California with a supermajority vote requirement for both passage of the budget and related legislation, including tax measures, it is difficult to draw parallels between research findings and the potential impact of Proposition 56 on tax and spending levels.

What Do the Proponents Claim?

Proponents argue that Proposition 56 presents a comprehensive package of reforms that should be considered as a whole:

> "The vote required for the State Senate and Assembly to adopt the State budget and related tax legislation is reduced from 2/3rds to 55%. Currently, Rhode Island and Arkansas are the only other states to routinely require a vote of two-thirds or more to pass a budget. The 55% vote required by the Budget Accountability Act still requires broad consensus to pass the budget, but it will end the gridlock caused by our current system."[17]

What Do the Opponents Claim?

Opponents of Proposition 56 focus on the measure's change to the vote requirement for measures increasing state taxes. The opponents' website states:

> "A rainy day fund to better manage state finances? Sounds good. No salary for legislators when they fail to pass the budget on time? Sounds good… (but) The real aim of the Blank Check Initiative is to make it easier for the legislature to increase our income tax, sales tax, property tax, car tax, and other state taxes, year after year. Prop. 56 pretends to discipline Sacramento politicians, but it actually rewards them with an open-ended blank check."[18]

Conclusion

Proposition 56 would make significant changes to the constitutional framework for the state's budget process, including changing the number of votes required for passage of the budget and related legislation. The measure would also establish a mechanism for funding the state's reserve or "rainy day" fund and require the state to provide voters with information on the budget. Most of the provisions of Proposition 56 are "process" changes. As such, they will not directly affect budget outcomes, which will depend on the actions of future legislatures. When considering Proposition 56, voters should consider whether the current rules governing the budget process encourage or discourage fiscally responsible outcomes.

ENDNOTES

[1] Section 12(a) of Article IV of the Constitution of the State of California.
[2] The population factor uses growth in school enrollment for the portion of the budget devoted to education and population growth for the remainder of the budget.
[3] National Conference of State Legislatures, *Supermajority Vote Requirements to Pass the Budget* (November/December 1998).
[4] National Conference of State Legislatures, *Supermajority Vote Requirements to Pass the Budget* (November/December 1998).
[5] Measures reducing state taxes take effect immediately and measures affecting some voter-approved initiatives require supermajority votes.
[6] Section 3 of Article XIIIA of the Constitution of the State of California.
[7] National Conference of State Legislatures, *Which States Require a Supermajority Vote to Raise Taxes?* (March 25, 1998). These states are Arizona (2/3), California (2/3), Colorado (2/3), Delaware (3/5), Louisiana (2/3), Mississippi (3/5), Nevada (2/3), Oklahoma (3/4), Oregon (3/5), South Dakota (2/3), and Washington (2/3).
[8] Section 5.5 of Article XIIIB of the Constitution of the State of California.
[9] National Association of State Budget Officers, *Budget Processes in the States* (January 2002).
[10] Department of Finance, *Chart P – 1 Historical Data Budget Act Dates and Veto Information* (August 2003), downloaded from http://www.dof.ca.gov/HTML/BUD_DOCS/CHARTS/CHART-P1.pdf on January 21, 2004.
[11] State Controller's Office, *Expenditures Under a "No Budget" Situation* (June 25, 2003).
[12] US General Accounting Office, *State Supermajority Requirements* (June 2, 1998).
[13] California Citizens Budget Commission, *Reforming California's Budget Process: Preliminary Report and Recommendations of the California Citizens Budget Commission* (Center for Governmental Studies: 1995), pp. 45 - 46.
[14] California Citizens Budget Commission, *Reforming California's Budget Process: Preliminary Report and Recommendations of the California Citizens Budget Commission* (Center for Governmental Studies: 1995), pp. 45 – 47.
[15] California Constitutional Revision Commission, *Final Report and Recommendations to the Governor and the Legislature* (1996), downloaded from http://www.library.ca.gov/CCRC/reports/html/final_report.html on January 23, 2004.
[16] This analysis classified states with selective supermajority vote requirements based on whether the requirement applied to a specific tax.
[17] Californians for Budget Accountability, *The Solution*, downloaded from http://www.budgetaccountabilitynow.org/solution.html on January 23, 2004.
[18] Californians Against Higher Taxes – No on 56, *Fact Sheet and Top 10 Reasons to Oppose*, downloaded from http://www.noblankchecks.com/article.asp?key=5&language=english and http://www.noblankchecks.com/article_top10.asp?language=english on January 23, 2004.

Jean Ross prepared this brief. The California Budget Project (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. Support for the CBP comes from foundation grants, publications, and individual contributions. Please visit the CBP's web site at www.cbp.org.