



Proposition 25

Increases Likelihood of Tax Increases by Reducing Vote Requirement for State Budget and Taxes, Restricts Public's Right to Referendum

CalTax Position: OPPOSE. Proposition 25 increases the likelihood of state tax increases – and makes it less likely that the Legislature will carefully evaluate programs for waste and inefficiency – by reducing the vote requirement for passing the state budget and tax increases that are part of the budget. The initiative also effectively eliminates voters' right to use the referendum process to stop taxes that are disguised as "fees" and other bad legislation.

Subject: Reduces the vote requirement for passing the budget, and taxes that are part of the budget, from two-thirds of the Legislature to a bare majority. Also restricts the constitutional right of the public to use the referendum process to reject fees, including tax-like "fees."

Another provision states that if the Legislature does not pass a budget by the constitutional deadline of June 15, budget appropriations to legislative salaries, reimbursement for travel, and living expenses would be prohibited.

History: California's two-thirds budget vote requirement has its origins in the Riley-Stewart Plan of 1933, while Proposition 13 of 1978 requires a two-thirds vote for any change in state taxes enacted for the purpose of increasing revenues.

This initiative is not the first attempt to lower California's legislative vote thresholds. In 2004, voters resoundingly rejected Proposition 56, which would have lowered the vote requirement for the budget and related tax increases to 55 percent. That measure, opposed by Cal-Tax, received only 34 percent of the vote. The Legislative Analyst's Office opined that the initiative would have resulted in significant tax increases.

Fiscal Impact: Could lead to multibillion-dollar tax hikes and major increases in state spending.

The Legislative Analyst's Office states that Proposition 25 would make "state spending easier to enact," but said the fiscal impact is unknown. "The extent of the impacts would depend on a number of factors – including the state's financial circumstances, the composition of the Legislature, and its future actions," the LAO said.

The LAO has not analyzed Proposition 25's provisions that would allow tax hikes to be approved by a bare majority of the Legislature if the increases were part of the budget. In an analysis of Proposition 56 of 2004 – the most recent major initiative that sought to reduce the vote threshold for taxes – the LAO noted: "The reduced number of required votes would make it easier in some years to approve tax increases related to the budget.

In such cases, the measure would result in higher tax revenues (and state spending) than otherwise would have occurred. This potential revenue impact could be significant."

CalTax Analysis and Policy Considerations:

- **Two-Thirds Vote Requirement Is a Check on Government Waste.** The two-thirds vote for the budget and taxes is not the source of California's budget problems. The two-thirds vote requirement ensures bipartisan consensus, and provides checks and balances for policymaking. The vote threshold encourages the Legislature to address government waste and to look for ways to increase government efficiency before increasing the tax burden on California families and businesses.
- **Majority-Vote Requirement Doesn't Guarantee Timely Passage of Budget.** Experience from other states shows that having a majority-vote budget rule does not ensure timely passage, nor does having a higher vote requirement automatically result in lateness.

California was one of nine states that began the 2010 fiscal year without a budget in place, according to the National Conference of State Legislatures. The eight other states all have majority-vote budgets.

Two other states (Rhode Island and Arkansas) have supermajority vote requirements like California's, and both started the fiscal year with budgets in place. California legislators also have been able to pass the state budget on time under the existing system – under the two-thirds requirement that has been in place since 1933, state lawmakers passed budgets on time for several decades.

- **Public Deserves Right to Challenge Fees and Tax-Like "Fees."** When elected officials fail to represent their constituents, and approve legislation that isn't supported by the public, Californians have a check on government through the democratic process of the referendum. The right of referendum currently gives voters the opportunity to reject fees, including tax-like "fees," and Proposition 25 would take away this important right.
- **Proposition 25 Includes Deceptive Wording.** Proposition 25's proponents claim that they do not intend to change the vote threshold for taxes, and the title and summary of the initiative prepared by the state states that the initiative retains a two-thirds vote for taxes. However, these statements are not substantiated by the initiative's language.

As written, Proposition 25 allows budget bills and budget trailer bills to be passed by a bare majority vote, by amending Article IV of the Constitution to include section 12(e), which reads: "Notwithstanding any other provision of law or this Constitution, the budget bill and other bills providing for appropriations related to the budget bill may be passed in each house by roll call vote entered in the journal, a majority of the membership concurring..." The "notwithstanding" language trumps other provisions of the California Constitution if a tax provision is included in a bill "providing for appropriations related to the budget bill" – in other words, a major tax increase could be included in a budget-related bill, and could be approved on a bare majority vote. Historically, many major tax increases have been approved as part of budget deals.

Also, Section 12(e) that would be added by Proposition 25 specifically states that "nothing in this subdivision shall affect the vote requirement for appropriations for the public schools..." A court might interpret this to mean that because appropriations for public schools are exempted from the initiative, other provisions, such as Proposition 13, are intentionally trumped by the majority-vote threshold. In any event, the Legislature likely would push the envelope and interpret the language broadly, to the detriment of taxpayers, and costly litigation would be inevitable.

CalTax urges you to vote NO on Proposition 25 – a misleading initiative that would pave the way for higher taxes and restrict the public's right to reject bad legislation at the ballot box.