SA2003RF0069

December 15, 2003

VIA HAND DELIVERY

Office of the Attorney General
1300 "I" Street
Sacramento, CA 95814

RECEIVED
DEC 16 2003
INITIATIVE COORDINATOR
ATTORNEY GENERAL'S OFFICE

Attention: Tricia Knight

Re: Investing in Quality Classrooms Act

Dear Ms. Knight:

Pursuant to Elections Code section 9002, we request that the Attorney General prepare a title and summary of a measure entitled the "Investing in Quality Classrooms Act." The text of the measure, a check for $200.00, the address at which we are registered to vote and the signed statement certifying that we will not willfully allow initiative signatures to be used for purposes other than qualification of the measure are enclosed.

Please direct all correspondence and inquiries regarding this measure to:

Roberta B. Johansen
James C. Harrison
Remcho, Johansen & Purcell
201 Dolores Avenue
San Leandro, CA 94577
Phone: (510) 346-6200
FAX: (510) 346-6201

Sincerely,

Roberta B. Johansen James C. Harrison

SA2003RF0069

Signed Statement Required by Elections Code Section 9608

I, Roberta B. Johansen, acknowledge that it is a misdemeanor under state law (Section 18650 of the Elections Code) to knowingly or willfully allow the signatures on an initiative petition to be used for any purpose other than qualification of the proposed measure for the ballot. I certify that I will not knowingly or willfully allow the signatures for this initiative to be used for any purpose other than qualification of the measure for the ballot.

Roberta B. Johansen

Dated this 16th day of December, 2003

RECEIVED
DEC 16 2003
INITIATIVE COORDINATOR
ATTORNEY GENERAL'S OFFICE

SA2003RF0069

Signed Statement Required by Elections Code Section 9608

I, James C. Harrison, acknowledge that it is a misdemeanor under state law (Section 18650 of the Elections Code) to knowingly or willfully allow the signatures on an initiative petition to be used for any purpose other than qualification of the proposed measure for the ballot. I certify that I will not knowingly or willfully allow the signatures for this initiative to be used for any purpose other than qualification of the measure for the ballot.

James C. Harrison

Dated this 15th day of December, 2003

RECEIVED
DEC 16 2003
INITIATIVE COORDINATOR
ATTORNEY GENERAL'S OFFICE

SA2003RF0069

Section 1. Title.

This measure shall be known and may be cited as the "Investing in Quality Classrooms Act."

Section 2. Findings and Declaration of Purpose.

1. We must invest in our children's education. Providing a quality education for our children is the most important thing we can do for their future and the future of our state.

2. California must make children and classrooms the priority in school funding.

3. California schools continue to be underfunded. Education funding in California has been below the national average for more than a decade.

4. Because of the state budget crisis, education spending in California has been cut by billions of dollars. These cuts have resulted in teacher lay-offs, fewer textbooks and other classroom materials, as well as increased class size. We need to restore these cuts and ensure that our classrooms are adequately funded.

5. As a result of chronic underfunding, California class sizes are among the largest in the nation, denying children the individualized learning they deserve.

6. California must improve student performance by increasing funding to reduce class sizes, provide new instructional supplies and materials, offer teacher training and increase teacher compensation in order to attract the best and brightest into the teaching profession.

7. A well-educated workforce increases productivity and quality for California businesses.

8. Education programs should be funded without raising homeowners' property taxes or reducing important services such as police and fire protection.

9. Unlike single-family residences, commercial buildings produce income for their owners. Business property changes ownership less often than houses, so the share of property taxes paid by businesses has been declining. Furthermore, California commercial real property tax rates are among the lowest in the nation. It makes sense, therefore, to tax commercial real property at a higher rate than private homes. The increased revenues will be used to improve the quality of California's public schools. Small businesses will be protected by new exemptions from the personal property tax.

10. We must provide protections from waste and mismanagement. None of the funds in this initiative will be used for administrative overhead. It also provides for criminal penalties, loss of credentials and/or fines for administrators who misuse school funds.

11. The annual audit required by this initiative will ensure that every penny goes into our classrooms, where it is needed most.

12. We must ensure that these funds are used for improving learning. None of the funds in this initiative can be used to replace or supplant existing funding.

Section 3. Purpose and Intent.

This measure is not intended to alter or repeal any exemption currently applicable to taxes on real property or to increase or in any way affect the property taxes paid by homeowners on noncommercial property.

Section 4. Section 5.5 is hereby added to Article IX of the Constitution of the State of California, to read as follows:

Sec. 5.5. (a) The Investing in Quality Classrooms Fund is hereby created in the State Treasury to be held in trust for the purposes set forth below and is continuously appropriated for distribution to school districts based on enrollment.

(b) Investing in Quality Classrooms Funds shall not be used to pay administrative costs and may be used for the following educational purposes only:

(1) To reduce class size in grades kindergarten through 12, inclusive.

(2) To purchase textbooks and instructional materials, supplies, and equipment.

(3) To provide teacher salaries and benefits that will encourage qualified individuals to become teachers and to remain teachers in California's public schools.

(4) To provide training for teachers.

(c) The amounts deposited in the Investing in Quality Classrooms Fund shall be used exclusively for the purposes set forth in this section. No moneys in the Investing in Quality Classrooms Fund shall be used to supplant federal, state, or local funds used for educational programs. The Legislature shall set penalties, including loss of credentials, fines, and/or criminal prosecution for school district administrators who misuse funds appropriated and allocated pursuant to this Section.

(d) None of the provisions of this Section shall alter or affect any right to equal protection provided by this Constitution.

Section 5. Section 1 of Article XIII A of the Constitution of the State of California is hereby amended to read:

Sec. 1 (a). ~~The~~ *Except as provided in subdivisions (b), (e) and (f), 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. *No new ad valorem taxes shall be imposed on residential real property except for taxes identified in subdivisions (e) and (f).* The one percent (1%) tax ~~to~~ *shall* be collected by the counties and apportioned according to law to the districts within the counties.

(b) Notwithstanding any other provision of law or of this Constitution, the ad valorem property tax on commercial real property shall be fixed at a rate .50% higher than the ad valorem property tax on residential real property imposed pursuant to subdivision (a) and any local taxes imposed pursuant to subdivisions (e) and (f).

(c) The ad valorem tax imposed by subdivision (b) shall be collected by the counties and transferred to the State Treasury for distribution pursuant to Section 8.6 of Article XVI.

(d)(1) For purposes of this section, "residential real property" means any of the following:

(A) An owner-occupied single-family dwelling unit which is intended to be used and is used primarily as a permanent residence;

(B) A second home and the land on which that dwelling unit is constructed;

(C) Unimproved real property that is zoned for a single-family residential dwelling.

(D) That portion of any building used as single or multi-family rental dwelling units.

(2) For purposes of this section, the following property shall not be considered commercial real property:

(A) Real property used for commercial agricultural production, as defined by statute;

(B) Open space and historically significant property as defined in Section 8 of Article XIII;

(C) Taxable government-owned property as defined in Section 11 of Article XIII.

(3) For purposes of this section, "commercial real property" means all real property not defined in paragraphs (1) or (2) or not otherwise exempt from taxation pursuant to any provision of this Constitution.

~~(b)~~ *(e)* The limitations provided for in subdivisions (a) *and (b)* shall not apply to ad valorem taxes or special assessments to pay the interest and redemption charges on any of the following:

(1) Indebtedness approved by the voters prior to July 1, 1978.

(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, or the acquisition or lease of real property for 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)~~*(e)*(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.

~~(e)~~ *(f)* 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)~~ *(e) on all property described in subdivisions (a) and (b) that is not otherwise exempt from taxation.*

Section 6. Section 3.7 is added to Article XIII A of the California Constitution to read:

Sec. 3.7. In addition to any personal property tax exemption established in accordance with Section 2 of Article XIII, a personal property tax exemption may be established by statute to provide aid to businesses in that amount as provided for in paragraph (1) of subdivision (b) of Section 8.6 of Article XVI.

Section 7. Section 8.3 is added to Article XVI of the California Constitution to read:

Sec. 8.3 (a) Funds appropriated pursuant to subdivision (a) of Section 5.5 of Article IX shall not be deemed to be part of "total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIIIB" as that term is used in paragraphs (2) and (3) of subdivision (b) of Section 8.

(b) Revenues derived from the taxes imposed pursuant to subdivision (b) of Section 1 of Article XIIIA shall not be deemed to be "General Fund revenues which may be appropriated pursuant to Article XIIIB" as that term is used in paragraph (1) of subdivision (b) of Section 8 nor shall they be considered in the determination of "per capita General Fund revenues" as that term is used in paragraph (3) of subdivision (b) and in subdivision (e) of Section 8.

(c) Notwithstanding Section 16, revenues derived from the taxes imposed on taxable property in a redevelopment project pursuant to subdivision (b) of Section 1 of Article XIIIA shall not be used for any purpose other than those set forth in Section 8.6.

Section 8. Section 8.6 is added to Article XVI of the California Constitution to read:

Sec. 8.6 (a). During each fiscal year, from the revenues generated by the additional ad valorem property tax imposed pursuant to subdivision (b) of Section 1 of Article XIII A, the Controller shall calculate and transfer to the State General Fund the amount necessary to offset the decrease in State personal and corporate income tax revenues caused by increased deductions taken as a result of the additional ad valorem property tax imposed pursuant to paragraph (1) of subdivision (b) of Section 1 of Article XIII A.

(b) The Controller shall allocate the revenues remaining after the distribution made pursuant to subdivision (a) as follows:

(1) Twenty percent for aid to businesses as set forth in law;

(2) The remainder, including any interest earned thereon, to the Investing in Quality Classrooms Fund for allocation and distribution as set forth in Sections 5.5 of Article IX.

Section 9. Section 14 is hereby added to Article XIIIB of the Constitution to read:

Sec. 14 (a). For purposes of this article, "proceeds of taxes" shall not include the revenues derived from the taxes imposed pursuant to subdivision (b) of Section 1 of Article XIIIA.

(b) For purposes of this article, "appropriations subject to limitation" of each entity of government shall not include appropriations of revenues derived from the taxes imposed pursuant to subdivision (b) of Section 1 of Article XIIIA.

(c) The duty to collect the tax imposed by subdivision (b) of Section 1 of Article XIIIA shall not be considered a new program or higher level of service mandated by the State for purposes of this article.

Section 10. Chapter 1.5 is hereby added to Part 9 of Division 1 of Title 1 of the Education Code, to read as follows:

CHAPTER 1.5 THE INVESTING IN QUALITY CLASSROOMS ACT

ARTICLE 1. GENERAL PROVISIONS

Sec. 14100. For purposes of this Chapter and Section 5.5 of Article IX of the California Constitution, the following shall apply:

(a) "School districts" shall include charter schools or county offices of education and any programs or schools operated under the supervision of a county office of education.

(b) "Teacher" means a non-management certificated or teacher permit employee of a school district or county office of education.

(c) For purposes of determining funding for charter schools, "enrollment" in the K-12 educational program includes pupils enrolled in a charter school all of whose teachers hold a Commission on Teacher Credentialing certificate, permit, or other document equivalent to that which a teacher in other public schools would be required to hold.

Sec. 14101. Each school district shall prepare and file with the State Superintendent of Public Instruction an annual audit of the funds received from the Investing in Quality Classrooms Fund. The audit may be prepared separately or as part of any annual audit required by the State, but it shall show how the funds were spent by category and program. School districts shall post the audit reports required pursuant to this Section on their Internet web sites. If a district does not maintain an Internet web site, it shall forward its audit to the State Superintendent of Public Instruction, who shall post it on the State Superintendent's web site.

Sec. 14102. The Superintendent of Public Instruction shall not include funds distributed pursuant to this chapter in calculating and apportioning funds as provided in Sections 2558, 42238, or 56836.08, nor shall such revenues be included in a school district's expenditures for purposes of calculating the district's required reserve for economic uncertainties pursuant to Section 33128.

ARTICLE 2. FUNDING FOR K-12 EDUCATION

Sec. 14120. After July 1, 2005, the Controller shall distribute the revenues in the Investing in Quality Classrooms Fund at least twice during the fiscal year to school districts based on their enrollment. The funds shall be spent only for the purposes set forth in Section 5.5 of Article IX of the California Constitution.

Section 11. Government Code Section 13340 is amended to read:

(a) Except as provided in subdivision (b), on and after July 1, 2004, no moneys in any fund that, by any statute other than a Budget Act, are continuously appropriated without regard to fiscal years, may be encumbered unless the Legislature, by statute, specifies that the moneys in the fund are appropriated for encumbrance.

(b) Subdivision (a) does not apply to any of the following:

(1) The scheduled disbursement of any local sales and use tax proceeds to any entity of local government pursuant to Part 1.5 (commencing with Section 7200) of Division 2 of the Revenue and Taxation Code.

(2) The scheduled disbursement of any transactions and use tax proceeds to an entity of local government pursuant to Part 1.6 (commencing with Section 7251) of Division 2 of the Revenue and Taxation Code.

(3) The scheduled disbursement of any funds by a state or local agency or department that issues bonds and administers related programs for which funds are continuously appropriated as of June 30, 2004.

(4) Moneys that are deposited in proprietary or fiduciary funds of the California State University and that are continuously appropriated without regard to fiscal years.

(5) The scheduled disbursement of any motor vehicle license fee revenues, including the General Fund appropriations made pursuant to Sections 11000 and 11000.1 of the Revenue and Taxation Code, to an entity of local government pursuant to the Vehicle License Fee Law (Part 5 (commencing with Section 10701) of Division 2 of the Revenue and Taxation Code).

(6) Moneys that are deposited in the Investing in Quality Classrooms Fund.

Section 12. Section 94 is hereby added to the Revenue and Taxation Code, to read as follows:

Sec. 94. For purposes of Section 1 of Article XIII A and Section 8.6 of Article XVI of the California Constitution, the following definitions shall apply:

(a) "Dwelling unit" includes, among other real properties, a unit or lot within a cooperative housing corporation or stock cooperative, a community apartment project, a condominium project, a planned unit development, or a mobilehome or manufactured home and any land owned by the homeowner and on which the mobilehome or manufactured home is located.

(b) "Real property used for commercial agricultural production" means land zoned and used for producing commercial agricultural commodities and any improvements thereon, exclusive of that portion of the full value of non-residential structures situated on the land that exceeds $500,000.

Section 13. Section 100.7 is hereby added to the Revenue and Taxation Code, to read as follows:

Sec. 100.7. (a) For the 2005-06 fiscal year and each fiscal year thereafter, the Controller shall allocate among the counties those moneys set aside for aid to businesses pursuant to paragraph (1) of subdivision (b) of Section 8.6 of Article XVI of the California Constitution. The Controller shall allocate those moneys among the counties in shares that, as determined pursuant to subdivision (b), correspond to each county's percentage share of the total statewide property tax revenue loss resulting in that fiscal year from the tax exemption established by Section 210. Each county shall apportion its allocation under this subdivision among the jurisdictions in that county in the same manner as revenues derived from locally assessed property are required by law to be allocated among those same jurisdictions.

(b) For the 2005-06 fiscal year and each fiscal year thereafter, each county's allocation under subdivision (a) shall be calculated as follows:

(1) Each county shall report to the Controller the total taxable value of personal property in that county for the property tax lien date immediately preceding the subject fiscal year.

(2) The Controller shall determine the combined total of all of the amounts reported pursuant to paragraph (1).

(3) The Controller shall divide each amount reported under paragraph (1) by the combined total determined under paragraph (2).

(4) The Controller shall multiply each ratio determined under paragraph (3) by the total amount of moneys set aside for the subject fiscal year for aid to business under paragraph (1) of subdivision (b) of Section 8.6 of Article XVI of the California Constitution.

Section 14. Section 210 is hereby added to the Revenue and Taxation Code, to read as follows:

Sec. 210. (a) For purposes of providing aid to business as described in paragraph (1) of subdivision (b) of Section 8.6 of Article XVI of the California Constitution, for the January 1, 2005 lien date and each lien date thereafter, there is exempted from tax that amount of the full value of personal property assessable to each taxpayer that does not exceed the amount most recently estimated under subdivision (b) by the Small Business Tax Relief Funding Authority.

(b)(1) The Small Business Tax Relief Funding Authority is hereby established to consist of the Controller, the State Treasurer, and the Director of Finance, or the designee of any of them.

(2) For the set of three property tax lien dates commencing with January 1, 2005, and for each set of three property tax lien dates thereafter, the Small Business Tax Relief Funding Authority shall estimate that single amount that, when applied under subdivision (a) to each of the three subject lien dates, will result in a statewide personal property tax revenue loss equal to 20 percent of the average annual amount of revenue to be derived over the three lien dates from the additional ad valorem property tax rate imposed under subdivision (b) of Section 1 of Article XIII A of the California Constitution.

Section 15. Section 96.11 is hereby added to the Revenue and Taxation Code, to read as follows:

Sec. 96.11. For the 2006-07 fiscal year and each fiscal year thereafter, the property tax revenue allocation required by subdivision (c) of Section 8.6 of Article XVI of the California Constitution shall not affect the amounts determined under subdivision (a) of Section 96.1, or any successor to that provision.

Section 16. Amendment.

The statutory provisions of this measure may be amended to further the purposes of the initiative by a statute other than the annual budget act. Any such amendment must be passed in each house by rollcall vote entered in the journal, two-thirds of the membership concurring, and signed by the Governor.

Section 17. Severability.

The provisions of this measure are severable. If any provision of this measure or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

Section 18. Conflicting Initiatives.

In the event that this measure and another initiative measure or measures relating to taxation of real or personal property shall appear on the same statewide election ballot, the provisions of the other measure or measures shall be deemed to be in conflict with this measure. In the event that this measure receives a greater number of affirmative votes, the provisions of this measure shall prevail in their entirety, and the provisions of the other measure shall be null and void.

Section 19. Effective Date.

This measure shall go into effect on January 1, 2005.