Two_Thirds Vote Preservation Act of 2000

SECTION 1. Title

This measure shall be know and may be cited as the “Two-Thirds Vote Preservation Act of 2000.”

SECTION 2. Findings and Declaration of Purpose

The People of the State of California find an declare that:

(a) Article XIII A, section 3 of the California Constitution, prohibits the California Legislature from imposing a state tax without approval by a two-thirds vote of the members of each house.

(b) Article XIII C, sections 2(b) and 2(d) of the California Constitution prohibit local governments from imposing a general tax without approval by a majority vote of the people or a special tax without approval by a two-thirds vote of the people.

(c) These vote requirements do not apply to the imposition of legitimate fees.

(d) There have been increasing attempts by the state and local governments to disguise new taxes as fees in order to avoid the vote requirements.

(e) In 1997 the California Supreme Court in the case of Sinclair Paint Company v. State Board of Equalization defined a fee in such manner as to unreasonably broaden the purposes for which fees can be imposed.

(f) The breadth of the Supreme court’s decision will encourage the use of fees to avoid the vote requirements of Articles XIII A and XIII C and significantly weaken the tax protections created by these propositions.

(g) The distinction between a fee and a tax was reasonably clear before the Supreme Court decision.

(h) In order to preserve that distinction and prevent avoidance of the two-thirds legislative vote requirement of Article XIII A and the majority and two-thirds popular vote requirements of Article XIII C, it is necessary to amend the Constitution.

SECTION 3. Section 3 of Article XIII A of the California Constitution is amended to read:

Section 3. From and after the effective date of this article, any changes in state taxes
enacted for the purpose of increasing revenues collected pursuant thereto whether by increased
rates or changes in the method of computation must be imposed by an Act passed by not less
than two-thirds of all members elected to the two houses of the Legislature, except that no new
ad valorem taxes on real property, or sales or transaction taxes on the sales of real property may
be imposed. **For purposes of this section, "state taxes" do not include an "assessment" or
"fee" as defined in Article XIII D, sections 2(b) and 2(e), real property development fees, or
regulatory fees that do not exceed the reasonable cost of regulation the activity for which
the fee is charged. Provided, however, compulsory fees enacted after July 1, 1999 to
monitor, study or mitigate the societal or economic effects of an activity, and which impose
no significant regulatory obligation on the fee payer's activity other than the payment of
the fee, and regulatory fees that exceed the reasonable cost of regulating the activity for
which the fee is charged, shall be deemed state taxes subject to the two-thirds vote
requirement of this section. Monies recoverable as damages, remedial expenses or penalties
arising from a specific event shall not be deemed taxes or fees.**

**This section shall not apply to 1) any fee that was authorized by law prior to July 1,
1999, 2) any increase in such fee attributable to inflation, or 3) any increase in such fee
attributable to increased workload, provided such increased workload is not the result of
expansion of the class of activity or activities to which the fee applied prior to July 1, 1999.**

SECTION 4. Section 1 of Article XIII C of the California Constitution is amended to read as
follows:

**SECTION 1. Definitions. As used in this article:**

a. "Federal tax" means any tax imposed for general governmental purposes.

b. "Local government" means any county, city, city and county, including a charter
city or county, any special district, or any other local or regional governmental
entity.

c. "Special district" means an agency of the State, formed pursuant to general law or
a special act, for the local performance of governmental or proprietary functions
with limited geographic boundaries including, but not limited to, school districts
and redevelopment agencies.

d. "special tax means any tax imposed for specific purposes, including a tax imposed
for specific purposes, which is placed into a general fund.

e. **For purposes of subsections (a) and (d) of this section, "general taxes" and
"special taxes" do not include an "assessment" or "fee" as defined in Article
XIII D, sections 2(b) and 2(e), real property development fees, or regulatory
fees that do not exceed the reasonable cost of regulating the activity for
which the fee is charged. Provided, however, compulsory fees enacted after
July 1, 1999 to monitor, study or mitigate the societal or economic effects of
an activity, and which impose no significant regulatory obligation on the fee
payer's activity other than the payment of the fee, and regulatory fees that
exceed the reasonable cost of regulating the activity for which the fee is
charged, shall be deemed state taxes subject to the two-thirds vote**
requirements of this section. Monies recoverable as damages, remedial expenses or penalties arising from a specific event shall not be deemed taxes or fees.

This section shall not apply to 1) any fee that was authorized by law prior to July 1, 1999, 2) any increase in such fee attributable to inflation, or 3) any increase in such fee attributable to increased workload, provided such increased workload is not the result of expansion of the class of activity or activities to which the fee applied prior to July 1, 1999.

SECTION 5. **Severability**

If any provision of this Act, or part thereof, is for any reason held to be invalid or unconstitutional, the remaining provisions shall not be affected but shall remain in full force and effect, and to this end the provisions of this Act are severable.