

Metropolitan Transportation Commission and Association of Bay Area Governments
Joint MTC ABAG Legislation Committee

February 10, 2023

Agenda Item 3b

**Assembly Constitutional Amendment 1 (Aguiar-Curry): Voter Threshold for Local
Infrastructure Bonds and Taxes**

Subject:

Assembly Constitutional Amendment (ACA) 1 would lower to 55 percent the voter approval threshold for local bonds and special taxes for affordable housing, transportation, resilience and other public infrastructure.

Background:

In 2000, California voters passed Proposition 39, a constitutional amendment lowering the vote threshold for certain school bonds from two-thirds to 55 percent. This change is credited with allowing the passage of numerous school bonds that would otherwise have failed. ACA 1 would similarly lower to 55 percent the voter threshold for affordable housing and public infrastructure measures proposed by cities, counties, cities and counties, and certain special districts (as defined in Article XIII C of the California Constitution), including transit districts. The Bay Area Housing Finance Authority (BAHFA) meets the bill's definition of a "special district."

The bill defines affordable housing to include housing developments or portions of housing developments that provide housing and/or homelessness prevention services to extremely low-, low-, and moderate-income households earning up to 150 percent of countywide median income.

"Public infrastructure" is defined as projects that provide any of the following:

- Water or protecting water quality, sanitary sewer, and treatment of wastewater or reduction of pollution from storm water runoff
- Parks and open space and recreation facilities
- Improvements to transit and streets and highways
- Broadband internet access service expansion in underserved areas
- Flood control and protection of property from impacts of sea level rise
- Public safety buildings or facilities, equipment related to fire suppression, emergency response equipment, or interoperable communications equipment for direct and exclusive use by fire, emergency response, police, or sheriff personnel.
- Local hospital construction and public libraries

Recommendation:

Support and Seek Amendment / MTC Commission Approval

Support and Seek Amendment /ABAG Executive Board Approval

Discussion:

Bay Area voters have a long history of being generous and enthusiastic supporters of taxing themselves to help fund transportation and housing improvements. In addition to approving numerous local special taxes (subject to two-thirds approval), Bay Area voters have approved three regional bridge tolls increases to fund mobility improvements on the Bay Area bridge corridors.

MTC and ABAG have directed staff to pursue BAHFA placing a regional housing measure on the ballot in 2024. Concurrently, MTC and ABAG have directed staff to seek stakeholder and public input on authorizing legislation for MTC to place a regional transportation revenue measure on the ballot, with the goal of securing passage in 2024. In addition, MTC and ABAG are undertaking a robust resilience planning effort which, among other items, examines funding needs to enhance the Bay Area's resilience to sea level rise and other climate fueled hazards. Those funding needs are expected to be significant. Meeting future resilience needs will likely require new funding commitments across all levels of government.

Notably, because past bridge toll measures imposed a fee, not a tax, they were subject to a simple majority approval; Regional Measure 3 in 2018 passed with 55% of Bay Area voters supporting the measure. In contrast, potential future regional housing and transportation measures would be most likely be categorized as a special tax, and thus subject to two-thirds approval under current law. As noted above, ACA 1 would reduce this threshold for various expenditure priorities, including transportation, affordable housing, and resilience-related measures, improving the chances for success at the ballot.

Note that concurrent with this legislation, efforts are also underway to pursue a constitutional amendment via statewide initiative to lower the vote threshold to a simple majority strictly for housing bonds. While the vote threshold in ACA 1 is 55 percent versus a simple majority, staff finds ACA 1 consistent with the intent of Item 3D in our 2023 Joint Advocacy Program and recommends a "support and seek amendment," position to address a minor technical issue, as described below.

Amendment Recommendation

We recommend a friendly amendment to clarify that regional agencies would be covered under the bill. Specifically, ACA 1 should be amended to apply to eligible infrastructure bonds imposed by cities, counties, cities and counties, special districts (as defined), *and local governments as defined by Article XIII C of the California Constitution*. Regional governmental entities, including MTC, are considered a “local government” under Article XIII C. This amendment would ensure that a potential future MTC-led regional transportation measure would similarly be subject to the lower vote threshold.

Known Positions:

Support

California Labor Federation

California Professional Firefighters

Nonprofit Housing Association of Northern California


State Building and Construction Trades Council

Oppose

None on file

Attachments:

None


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