

Proposition 25: Passing the Budget on Time Act Brief Summary

SDCTA **OPPOSES** this measure as it fails to address the structural and governance problems that exist within the state, and instead places full blame on the State's inability to pass a budget by the Constitutional deadline on the 2/3 requirement. If this measure passes, there could be several consequences, such as:

- A budget could still not be passed on time as one of two conditions must be met: 1) governor signs off on budget, or 2) a 2/3 vote of the Legislature to override a Governor's veto of the budget.
- Allowing a budget to pass with a simple majority in a polarized State Legislature silences the voice of the minority party.
- Spending priorities could experience a significant shift as this measure does not require compromise among the State's two largest political parties.

Although the measure clearly states within its purpose and intent that it would retain the 2/3 requirement to increases taxes, it is unclear whether this requirement would be null and void due to the provisions of the measure.

- The State of California is one of three states in the union that requires at least a super majority (2/3) legislative vote to pass a budget. The actual requirement of a 2/3 vote began in 1933 with the voter approved Riley-Stewart Plan (Proposition 1).
- Despite mandates to pass a budget by June 15, 2010, the Legislature has consistently failed to pass a budget on time. From fiscal year (FY) 1978 to FY 2009, the Legislature has failed to pass a budget by the deadline 18 times; in other words, the budget has been late 56.25% of the time. The longest the budget went without being passed by the Legislature was 77 days (after its Constitutional deadline) for the FY 2009 budget.
- Prop 25 is a constitutional amendment that would lower the requirement to pass a budget (and budget-related bills known as "trailer bills") from 2/3 (66.7%) to a simple majority (50% + 1). The measure also contains a component that would forfeit salaries, travel reimbursements, and living expenses for members of the Legislature if the budget is not passed by midnight on June 15th. The moratorium on payments would be in effect until the budget bill is presented to the Governor. The measure would not allow "back pay", i.e. retroactive payments.
- The LAO anticipates that if the State is late on passing the budget, the State could save approximately \$50,000 per day. Other fiscal impacts are unknown as they would be determined by various factors, such as the makeup of the Legislature.
- Although the measure clearly states within its purpose and intent that it would retain the 2/3 requirement to increases taxes, it is unclear whether the opponents are correct in that the requirement would be null and void due to the text of the measure.

Prop 25: Passing the Budget on Time Act

October 2010

Board Recommendation:

OPPOSE

Rationale:

Prop 25 would change the requirement to pass a State budget from 2/3 to a simple majority. However, this measure fails to address the structural and governance problems that exist within the state, and instead places full blame on the State's inability to pass a budget by the Constitutional deadline on the 2/3 requirement. If this measure passes, there could be several consequences, such as:

- A budget could still not be passed on time as one of two conditions must be met: 1) governor signs off on budget, or 2) a 2/3 vote of the Legislature to override a Governor's veto of the budget.
- Allowing a budget to pass with a simple majority in a polarized State Legislature silences the voice of the minority party.
- Spending priorities could experience a significant shift as this measure does not require compromise among the State's two largest political parties.

Although the measure clearly states within its purpose and intent that it would retain the 2/3 requirement to increase taxes, it is unclear whether this requirement would be null and void due to the provisions of the measure.

Background:

The State of California is one of three states in the union that requires at least a super majority (2/3) legislative vote to pass a budget.¹ This has consistently been cited as a major cause for the State's budget problems. Although the requirement is usually attributed to Proposition 13, passed by voters in 1978, the actual requirement of a 2/3 vote began in 1933 with the voter approved Riley-Stewart Plan (Proposition 1).²

Title: "Passing the Budget on Time Act"

Election: November 2010

Description: Changes the requirement to pass a State budget from 2/3 to a simple majority.

Jurisdiction: State

Type: Constitutional amendment

Fiscal Impact: Possible State savings of \$50,000 per day the budget is late. Other impacts are unknown.

Proposition 1 was placed on the ballot by a Senate Constitutional Amendment authored by State Controller Riley and State Senator Stewart. The measure required a 2/3 vote for all budgetary appropriations, except public school support, if appropriations exceed 5% from the previous biennium.³ The goal of the measure was to reform taxation, allowing the burden for funding schools to shift back to the state.⁴

¹ The other two are Arkansas and Rhode Island.

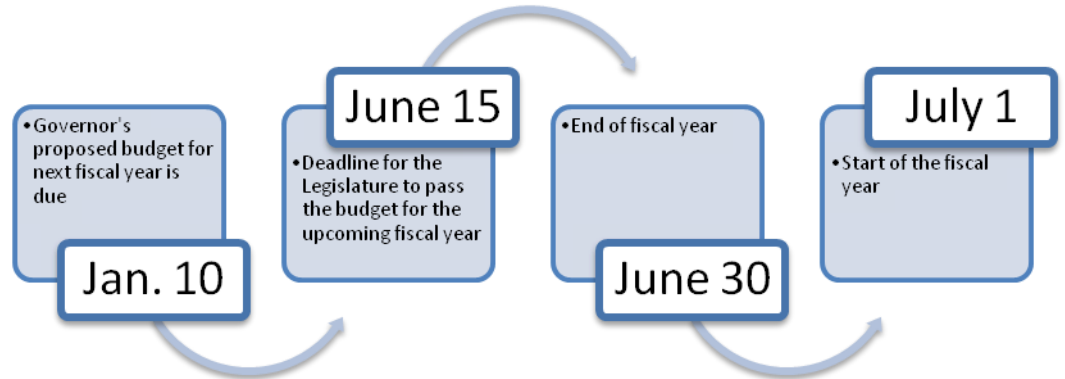
² In the original 1879 Constitution of California, there was a requirement that a majority of the members elected to each house vote in support of a bill in order for it to become law. This included appropriation bills.

³ State of California, June 1933 Special Election Ballot Pamphlet.

⁴ The California Constitution Revision Commission. "Constitution Revision History and Perspective." 1996.

Proposition 16 in 1962 removed the 5% requirement and extended the 2/3 budget approval requirement to all appropriation areas. The analysis by Legislative Counsel of this measure stated that since the actual effect of Proposition 1 in 1933 required a supermajority vote for all budget bills, this component of the measure would have no “practical effect.”⁵

Figure 1: California State Budget Timeline



In the 1960s and 1970s, there were several meetings of the California Constitution Revision Commission. According to its 1996 report, “the majority of the commissioners, however, concluded that the two-thirds vote was necessary to protect the different interests of urban versus rural and north versus south.”⁶

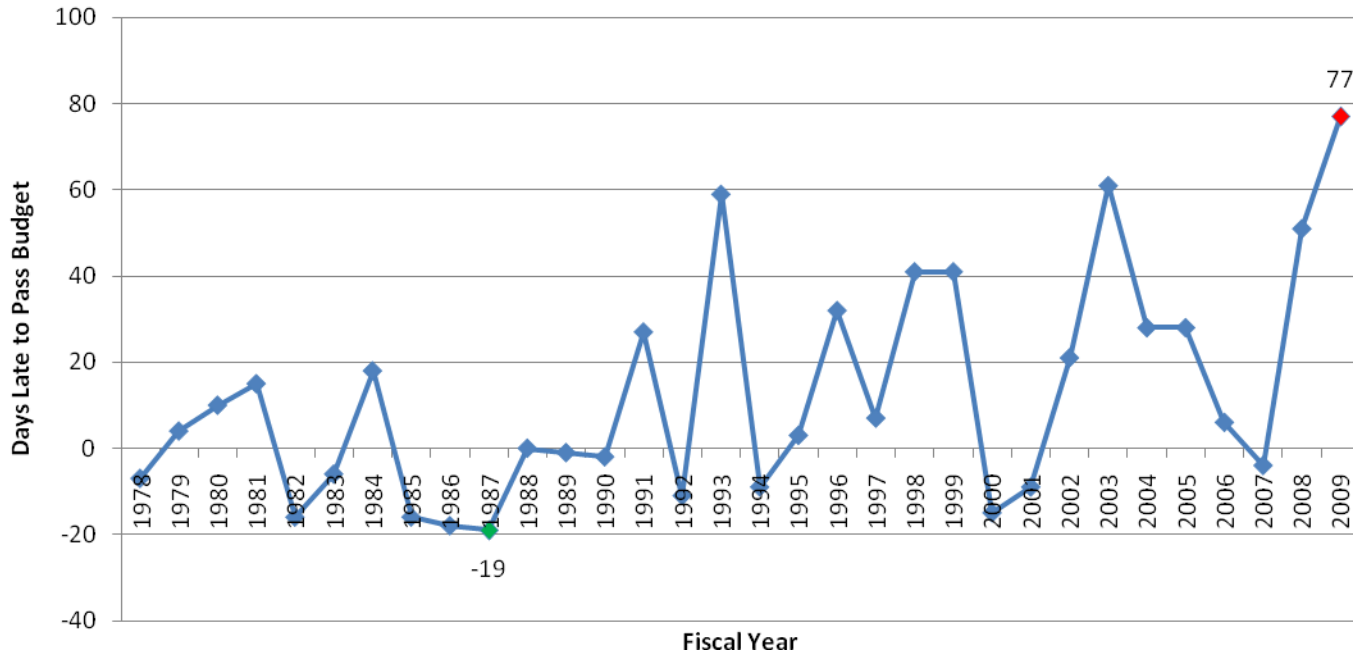
Growing sentiment regarding the inability for the Legislature to pass a budget by its deadline prompted the spur of voter initiatives to deal with the issue. A voter initiative in 1970 required the Governor to submit a budget within the first 10 days of the legislative session, rather than the first 30 days. The initiative also required the Legislature to pass a budget by June 15th, instead of at the end of the fiscal year (June 30th). Despite these mandates, the Legislature has consistently failed to pass a budget on time. From fiscal year (FY) 1978 to FY 2009, the Legislature has failed to pass a budget by June 15th 18 times; in other words, the budget has been late 56.25% of the time. The longest the budget went without being passed by the Legislature was 100 days (after its Constitutional deadline) for the FY 2011 budget.

⁵ State of California, November 1962 General Election Ballot Pamphlet.

⁶ The California Constitution Revision Commission. “Constitution Revision History and Perspective.” 1996.

California State Budget Passage FY 1978 - FY 2009

Source: California Department of Finance.



In May 2010, PPIC Released their survey on “Californians and Their Government” that found 51% of likely voters surveyed thought changing the budget process from 2/3 to a simple majority (while maintaining a 2/3 threshold for taxes) was a good idea; 40% thought it was a bad idea; 9% were not sure.⁷ PPIC has released similar surveys, asking another variation of the same question for several years: whether voters would be likely to support changing the requirement to pass a budget from 2/3 to 55%. Since March 2008, support for lowering this requirement has hovered between 47% and 54%.

State Controller

Several consequences result when the State does not pass a budget on time. For instance, delayed passage of the budget has previously (and recently) resulted in the State Controller issuing “IOUs” on behalf of the State to individuals as well as businesses.

Without an enacted budget, the State Controller **cannot** pay the following (among others):

1. “School districts for categorical programs such as special education and remedial summer school, community colleges, local governments and other entities not included in the above parameters.
2. Vendors for services provided after July 1.
3. Salaries and per diem of state elected officials and their appointed staff.”^{8,9}

⁷ PPIC. “Californians and Their Government.” May 2010. Available from http://www.ppic.org/content/pubs/survey/S_510MBS.pdf. Accessed on July 1, 2010.

⁸ California State Controller. “What the State Controller Can and Cannot Pay Without a State Budget (July 2010).” Available from http://www.sco.ca.gov/July_2010_payments.html. Accessed on July 6, 2010.

⁹ Salary payments are made in full when the budget goes into effect.

Without a budget, the State Controller **can** pay the following:

1. “Federally-mandated services such as Supplemental Security Income/State Supplementary Payment (SSI/SSP), and In-Home Support Services.
2. Debt service and other payments required by the State Constitution.
3. Vendor payments for services provided in the 2009-2010 fiscal year.
4. Expenses with ongoing appropriations from the Legislature, including Medi-Cal, CalWORKs, income tax refunds and payments on claims for unclaimed property.
5. Payroll for state employees covered by the Federal Fair Labor Standards Act.”¹⁰

From July 2, 2009 to August 13, 2009, the State Controller issued 327,000 IOUs totaling \$1.95 billion.¹¹

As a result of the current late budget (for FY 2011), the State Controller has noted that it is unable to pay \$1.12 billion for the month of July (or 5.79% of payments). For a review of these disabled payments, see Table 1 below.

Table 1: Payments the State Controller Can and Cannot Make in July 2010 Without a Budget

Category	Can Be Paid	Cannot Be Paid	Cannot Be Paid as a % of Total
Education			
<i>University of California (Payroll)</i>	\$ 41,250	\$ -	0.00%
<i>University of California (Nonpayroll)</i>	\$ 11,000	\$ 2,750	20.00%
<i>Community College Payments</i>	\$ 523,300	\$ 255,409	32.80%
<i>K-12 Monthly Apportionment</i>	\$ 3,489,621	\$ -	0.00%
<i>K-12 Monthly Apportionment (Categoricals)</i>	\$ -	\$ 130,000	100.00%
<i>Nutrition</i>	\$ -	\$ 16,131	100.00%
<i>Child Development</i>	\$ 152,259	\$ -	0.00%
Total Education:	\$ 4,217,430	\$ 404,290	8.75%
Individuals			
<i>Unemployment, Disability, Worker's Comp.</i>	\$ 1,855,000	\$ -	0.00%
<i>Lottery Winners</i>	\$ 189,663	\$ -	0.00%
<i>Income Tax Refunds</i>	\$ 254,884	\$ -	0.00%
<i>Cal-Grants</i>	\$ -	\$ 229,456	100.00%
<i>Unclaimed Property Claims</i>	\$ 22,867	\$ -	0.00%
<i>Worker's Comp.</i>	\$ 350,000	\$ -	0.00%
Total Individual Payments:	\$ 2,672,414	\$ 229,456	7.91%
Trial Courts			
<i>Pay and Benefits</i>	\$ 279,279	\$ -	0.00%
<i>Nonpayroll Expenses</i>	\$ -	\$ 9,199	100.00%
Total Trial Courts:	\$ 279,279	\$ 9,199	3.19%
Debt Service			
<i>Debt Service</i>	\$ 19,000	\$ -	0.00%
Total Debt Service:	\$ 19,000	\$ -	0.00%
Vendors			
<i>Transportation Revolving Fund (Transportation Expenditures)</i>	\$ 311,100	\$ 54,900.00	15.00%
<i>Transportation Revolving Fund (Monthly Contract Payments)</i>	\$ 267,000	\$ -	0.00%
<i>Electric Power Fund</i>	\$ 245,479	\$ -	0.00%
<i>Other</i>	\$ 407,899	\$ 421,392	50.81%
Total Vendor Payments:	\$ 1,231,478	\$ 476,292	27.89%
Medi-Cal			
<i>Non-Institutional Providers</i>	\$ 1,034,785	\$ -	0.00%
<i>Institutional Providers</i>	\$ 2,008,700	\$ -	0.00%
Total Medi-Cal Payments:	\$ 3,043,485	\$ -	0.00%
Social Services			
<i>Cal-Works</i>	\$ 2,305,667	\$ -	0.00%
<i>County Administration</i>	\$ -	\$ 21,063	100.00%

¹⁰ Ibid.

¹¹ California State Controller. “Chiang Completes Cash Review, Determines Date to Stop Issuing IOUs.” Available from http://www.sco.ca.gov/eo_pressrel_6080.html. August 13, 2010. Accessed on July 7, 2010.

<i>In-Home Supportive Services</i>	\$ 282,484	\$ -	0.00%
<i>Other Social Services Programs</i>	\$ 221,622	\$ -	
<i>Developmental Services - Regional Centers</i>	\$ 272,922	\$ -	
<i>State Payments for SSI/SSP</i>	\$ 493,000	\$ -	
Total Social Services Payments:	\$ 3,575,695	\$ 21,063	0.59%
Local Government			
<i>Vehicle License Fee</i>	\$ 33,400	\$ -	0.00%
<i>Public Safety Sales Tax</i>	\$ 216,764	\$ -	0.00%
<i>Sales Tax</i>	\$ 535,200	\$ -	0.00%
<i>Health and Welfare Realignment</i>	\$ 288,900	\$ -	
<i>Highway User Tax</i>	\$ -	\$ -	
Total Local Government Payments:	\$ 1,074,264	\$ -	0.00%
State Employees			
<i>Civil Service Staff</i>	\$ 2,106,090	\$ -	0.00%
<i>Appointees and Other Exempt Employees</i>	\$ -	\$ 4,494	100.00%
<i>Legislative Employees</i>	\$ -	\$ 16,000	100.00%
<i>Legislators</i>	\$ -	\$ 936	
<i>Statwide Elected Officials</i>	\$ -	\$ 70	
Total State Employee Payments:	\$ 2,106,090	\$ 21,500	1.01%
Retirees			
<i>Employer Retirement Benefits</i>	\$ 709,427	\$ -	0.00%
<i>Benefits</i>	\$ 1,144,000	\$ -	0.00%
Total State Employee Payments:	\$ 1,853,427	\$ -	0.00%
Total All Categories	\$ 20,072,562	\$ 1,161,800	5.79%

Without a budget, the State is able to borrow from other funds, delay payments, and sometimes borrow from the market through loans at higher interest rates. However, these resources can easily be exhausted, resulting in additional IOUs being issued.

Proposal

The Passing the Budget on Time Act of 2010 is a constitutional amendment that would lower the requirement to pass a budget (and budget-related bills known as “trailer bills”) from 2/3 (66.7%) to a simple majority (50% + 1). The measure also contains a component that would forfeit salaries, travel reimbursements, and living expenses for members of the Legislature if the budget is not passed by midnight on June 15th. The moratorium on payments would be in effect until the budget bill is presented to the Governor. The measure would not allow “back pay”, i.e. retroactive payments.

The measure lists in its purpose and intent that it would retain the 2/3 requirement to increase taxes.

“This measure will not change Proposition 13’s property tax limitations in any way. This measure will not change the two-thirds vote requirement for the Legislature to raise taxes.”

However, opponents argue that the following language allowing trailer bills to pass with a simple majority and immediately accompanying the budget would allow for taxes and appropriations to be folded into one bill, thus reducing the requirement to raise taxes.

“Notwithstanding any other provision of law or of this Constitution, the budget bill **and other bills providing for appropriations related to the budget bill** may be passed in each house by rollcall vote entered in the journal, a majority of membership concurring, to take effect immediately upon being signed by the Governor or upon a date specified in the legislation. Nothing in this subdivision shall affect the vote requirement for appropriations for the public schools...” (emphasis added)

The opponents of Proposition 25 sued to take the “retains two-thirds vote requirement for taxes” language out of the ballot title and summary. A Sacramento Superior Court Judge ruled in the opponents favor and stated that

having the language makes it appear as though one needs to vote yes on the measure to retain the two-thirds vote requirement. An Appeals Court reversed the ruling and stated that there is “nothing in the substantive provisions of Proposition 25 that would allow the Legislature to circumvent the existing constitutional requirement of a two-thirds vote to raise taxes.”

Analysis

- Changing the requirement to pass a budget from 2/3 to a simple majority is not a panacea for California’s government problems, nor is the current 2/3 requirement the root of them. California has established several provisions that are locked within the Constitution that contribute to California’s immobility, such as: short term limits, financial constraints that lock in spending, supermajority requirements to increase taxes, the current initiative process that allows citizens to amend the Constitution, etc.
- Several arguments are provided for in regard to the 2/3 vote requirement:
 1. A 2/3 vote requirement allows the minority to hold too much power in preventing the budget from getting passed. This allows the minority party to have a voice in a matter where their voices may not have otherwise been heard or given credence.
 2. By eliminating a 2/3 vote, it may have the result of “silencing” the minority.
 3. Under the current process, fingers are consistently pointed at others in regard to passing the budget on time. This results in voters not being able to hold their elected official as accountable.
 4. Maintaining a 2/3 threshold promotes government efficiency, resulting in less government spending.
 5. A 2/3 threshold promotes compromise and bipartisanship.
- The LAO anticipates that if the State is late on passing the budget, the State could save approximately \$50,000 per day. Other fiscal impacts are unknown as they would be determined by various factors, such as the makeup of the Legislature.
 - Effective December 7, 2009, legislators made the following:

Position	Annual Salary	Monthly Salary
Speaker of the Assembly	\$ 109,584	\$ 9,132
President Pro Tem of the Senate	\$ 109,584	\$ 9,132
Minority Floor Leader	\$ 109,584	\$ 9,132
Majority Floor Leader	\$ 102,437	\$ 8,536
Second Ranking Minority Leader	\$ 102,437	\$ 8,536
All Other Legislators	\$ 95,291	\$ 7,941

- A PPIC report found that supermajority rules for passing a budget will restrict spending and taxes only if all of the following conditions are met:¹²
 1. The majority party is a) smaller than the supermajority threshold or b) has splits within its own party
 2. The minority party is more fiscally conservative
 3. The majority party is not able to sway minority members with benefits to their district
 4. And one party controls both the executive and legislative branch of government
- This measure would likely make it easier to send a budget to the Governor, but it does not prevent the budget from being passed late. Budgets would still require sign-off from the Governor or an override by the Legislature.
- There could be consequences if this measure passes, such as spending priority shifts and passage of a weak budget to ensure payment to legislators.

¹² Ibid. Page 10.

Proponents of Prop 25:¹³

- Californians for Tax Reform
- Consumer Federation of California
- The Utility Reform Network
- California Teachers Association
- California League of Conservation Voters
- California Church IMPACT
- California Alliance of Retired Americans
- Congress of California Seniors
- American Federation of State, County and Municipal Employees
- California Association of Professional Scientists
- San Diego and Imperial County Labor Council
- Tim Gage, Former California State Director of Finance
- California Common Cause
- League of Women Voters of California
- Endangered Habitats League
- Natural Resources Defense Council
- Sierra Club
- California Federation of Labor, AFL-CIO
- San Francisco Labor Council
- Sacramento Gray Panthers
- State Assembly Speaker John Perez
- California State Treasurer Bill Lockyer
- State Senate President Pro Tem Darrell Steinberg

Opponents of Prop 25:¹⁴

- California Chamber of Commerce
- Americans for Tax Reform
- Industrial Environmental Association
- Kern County Taxpayers Association
- Los Angeles Area Chamber of Commerce
- National Taxpayers Union
- Small Business Action Committee
- Tea Party Patriots
- Ventura County Taxpayers Association
- California Taxpayers' Association
- Americans for Prosperity
- Howard Jarvis Taxpayers Association
- Inland Empire Taxpayers Association
- LAX Coastal Area Chamber of Commerce
- National Federation of Independent Business – California
- San Diego Tax Fighters
- Silicon Valley Taxpayers' Association
- Lincoln Club of San Diego County

Additional Opponent Arguments:

- With a majority vote, per diem rates for legislators could be increased.

¹³ Yes on Proposition 25 campaign. Available from: <http://www.endbudgetgridlock.com/supporters>. Accessed on September 30, 2010.

¹⁴ No on 25, Yes on 26 campaign. Available from <http://www.no25yes26.com/about-us-2/>. Accessed on 10/4/2010.