SUPREME COURT COPY

No. S168047

SUPREME COURT
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IN THE SUPREME COURT OF THE STATE OF CALIFORNIA

KAREN L. STRAUSS, *et al.*,

Petitioners,

v.

MARK D. HORTON, as State Registrar of Vital Statistics, etc., *et al.*,

Respondents;

DENNIS HOLLINGSWORTH, *et al.*,

Interveners.

APPLICATION FOR LEAVE TO FILE BRIEF *AMICUS CURIAE*; BRIEF FOR CALIFORNIA TEACHERS ASSOCIATION AS *AMICUS CURIAE* IN SUPPORT OF PETITIONERS; DECLARATION OF BARBARA J. CHISHOLM IN SUPPORT OF *AMICUS CURIAE* BRIEF FOR CALIFORNIA TEACHERS ASSOCIATION

(Volume II of II)

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DECLARATION OF BARBARA J. CHISHOLM IN SUPPORT OF *AMICUS CURIAE* BRIEF FOR CALIFORNIA TEACHERS ASSOCIATION

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DECLARATION OF BARBARA J. CHISHOLM

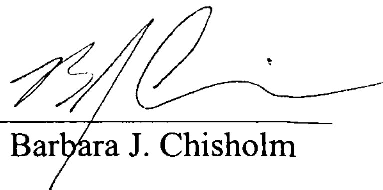
I, Barbara J. Chisholm, declare:

1. I am a member in good standing of the State Bar of California. I am an attorney at Altshuler Berzon LLP.

2. I am one of the attorneys for *Amicus Curiae* California Teachers Association ("CTA") in the above-captioned matter.

3. Attached hereto in an Appendix are true and correct copies of print-outs from the University of California's Hastings College of the Law Library's database of California ballot propositions (searchable at <http://library.uchastings. edu/library/california-research/ca-ballot-measures.html#ballotprop>), and true and correct copies of print-outs from the California Secretary of State's website (searchable at <http://www.sos.ca.gov/elections/elections_j.htm>), for the ballot propositions cited in pages 16-22 of CTA's amicus curiae brief.

I declare under penalty of perjury under the laws of the United States and the State of California that the foregoing is true and correct to the best of my knowledge.



Barbara J. Chisholm

APPENDIX OF BALLOT PROPOSITIONS

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Full Text

Record: 34

Proposition #	**10**
Title	**ABOLITION OF POLL TAX**
Year/Election	**1914** general
Proposition type	initiative
Popular vote	Yes: 405,375 (52.0%); No: 374,487 (48.0%)
Pass/Fail	Pass
Summary	Provides that no poll or head tax for any purpose shall be levied or collected in this state.
For	**ARGUMENT IN FAVOR OF ABOLITION OF POLL TAX.**

The poll tax has been handed down from the period when the people were classed as property and taxed as chattels.

Originally it was a perfectly just tax, because it was levied on the feudal baron and paid by him according to the number of serfs he owned. As he was getting all the benefit from the labor of the people under him, there was every reason why he should contribute to the support of the government in proportion to the number of people he controlled, and the head tax was the best way to determine that.

The poll tax, therefore, was simply the application of just principles of taxation to feudal age conditions. The feudal baron enjoyed a privilege conferred by law and he paid into the public treasury what the privilege was thought to be worth.

In course of time, however, the barons managed to shift the burden so that each man had to pay his own head tax. Thus the original reason for the tax ceased to exist, and it became an injustice.

Originally a tax upon property, the poll tax is now a tax upon persons, upon life itself. The basic assumption remains the same as before, namely, that the right to life, like the right to property, is a privilege granted by the state.

The poll tax is a survival of despotism and a denial of democracy.

For these reasons nearly all civilized nations have abolished the poll tax. The only large nations that still levy that tax are: Russia, Turkey, Persia, China, and a rapidly decreasing number of states of our country.

In 1895 the poll tax was not recognized in twenty states; in 1900 thirty-five states in the union had no state poll tax.

No one attempts to defend the poll tax on ethical grounds. Those who oppose its abolition can not refute the demonstrated charge that the tax is unjust and unfair and inflicts an unnecessary hardship on those least able to bear it.

The poll tax is not necessary for the support of the public schools. The amount the state school fund now derives from the poll tax will not be lost, nor will it have to be made up by some other equally objectionable method of taxation. The deficiency can easily be made up from the tax on corporation incomes.

An unjust and oppressive tax can not be justified on the ground that the proceeds are devoted to a useful purpose. It is not necessary to tax the poor in order to maintain the schools and to pay the teachers a decent salary. California is a rich state--the richest state per capita in the union--therefore it is erroneous to assume that a head tax is necessary to maintain the schools.

The poll tax is objectionable because it has never been uniformly collected. The state controller's reports prove that in some counties only 21 per cent of the population pay this tax and as high as 68 per cent in others. Wealthy citizens sometimes pay the poll tax; laborers always pay it through deductions from their wages.

The poll tax is a double tax. The class of persons from whom it is chiefly collected pay (indirectly but none the less certainly) the greater part of the taxes levied directly upon the owners of property. The latter class shifts the burden on the former class. The property-less class pays both the direct and the indirect tax.

The poll tax has not even the poor excuse of being justified because it taxes aliens, as this class contributes less than one eighth of the total amount collected. Hence we penalize our citizens to the extent of seven dollars for every one dollar we manage to extract from aliens.

The poll tax is despotic because it classes human life as a species of property. It is unjust because it places an additional tax on those who in other ways pay a share of the so-called direct taxation out of all proportion to their means. It can not be considered necessary so long as private property--the true creation of the state--suffices for the purpose of taxation.

FOR(au) Paul Scharrenberg |t Sec'y California State Federation of Labor

Against **ARGUMENT AGAINST ABOLITION OF POLL TAX.**

The state poll tax yields for the state school fund about $850,000 per annum, which is about one seventh of the total amount which the state provides for the support of common schools. In addition the poll tax is used by thirty-five out of the fifty-eight counties for road and hospital purposes and to provide additional school funds, amounting in all, in 1913, to $260,000. The total amount collected in poll taxes, state and county, is, therefore, in round numbers $1,110,000.

The proceeds of this tax are devoted to purposes--namely, the support of the schools, roads, and hospitals--which there is no doubt the people will insist shall be

maintained as liberally as ever. If this vast sum of $1,110,000 were raised by the general ad valorem tax, it would mean, all told, a tax of four cents on each one hundred dollars of the assessed valuation of the state. It has been suggested by some that the loss might be made good by increasing the taxes upon corporations. This suggestion, of course, applies to the state's share only, or $350,000, for there is no other way of raising the $260,000 which the counties would lose, except by the ad valorem tax. But when it is remembered that, at the last session of the legislature, the taxes on the corporations were raised as high as they justly could be, in the opinion of that body, it certainly can not be assumed that it would be right to immediately raise them still higher.

The arguments against the poll tax are, first, that it is an old tax. There are lots of things among our institutions that are old, but are not necessarily, on that account, bad. Indeed, it has sometimes even been argued that no tax is a good tax except an old tax.

It is argued that the tax is unequal, because the poor man pays as much as the rich man. This might be a valid argument if the poll tax stood all by itself. But the poll tax is one of many taxes and among the others are those which fall only upon the rich man and make his share commensurate with his ability.

It is argued again that the poll tax is not uniformly enforced and that some escape. That, however, is not an argument against the poll tax as such, but merely an argument for the better enforcement of the law. In 1900 the poll tax yielded $404,000. Since then the administration has so improved that it is yielding, as above stated, about $850,000 per annum, or considerably more than double. The mere fact that a given institution is not well administered is no argument for its abolition; some of our schools are not as successful as they might be, and some of our streets have chuck-holes in them, but that is no reason why the government should abandon the support of the schools or of the streets.

Every citizen, whether rich or poor, should pay some tax, and should thus be made conscious in a direct way of his responsibility for the support of the institutions under which he lives. There are many persons in California who pay no other direct tax than the poll tax. Among these are many aliens, and a large number of unorganized, migratory and seasonal laborers, whose presence is a menace, especially to organized labor, for they do not maintain the standards of living nor the standards of work which are essential to the support of the living or union wage.

The poll tax is a just tax. It bears heavily on no one. It is the only tax paid by certain aliens and by certain unorganized laborers. The revenues are necessary. Its defects can be cured by a more vigorous, uniform administration.

Against(au) Carl C. Plehn

Text of Prop. The electors of the State of California hereby propose an amendment of and to section 12 of article XIII of the constitution of said state, relating to poll taxes, so that the same shall read as follows:

PROPOSED LAW.

ARTICLE XIII.

Section 12. No poll tax **or head tax for any purpose whatsoever shall be levied**

or collected in the State of California.

Section 12, article XIII, proposed to be amended, now reads as follows:

EXISTING LAW.

Section 12. *The legislature shall provide for the levy and collection of an annual* poll tax, *of not less than two dollars, on every male inhabitant of this state over twenty-one and under sixty years of age, except paupers, idiots, insane persons, and Indians not taxed. Said tax shall be paid into the state school fund.*

CODE Amended Cal. Const. art. XIII, section 12.

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Full Text

Record: 47

Proposition # 19

Title CONSOLIDATION OF CITY AND COUNTY, AND LIMITED ANNEXATION OF CONTIGUOUS TERRITORY

Year/Election 1914 general

Proposition type initiative

Popular vote Yes: 293,019 (50.5%); No: 287,185 (%)

Pass/Fail Pass

Summary Initiative amendment to section 8 1/2 of article XI of constitution. Present section unchanged except to authorize chartered cities to establish municipal courts, and control appointments, qualifications and tenure of municipal officers and employees; authorizes cities exceeding 50,000 population to consolidate and annex only contiguous territory included within county from which annexing territory was formed on consolidation, or concurrently or subsequently added to territory excluded from original consolidated territory; requires consent of annexed territory and of county from which taken; prescribes procedure for consolidation and annexation.

For **ARGUMENT IN FAVOR OF OAKLAND CONSOLIDATION AMENDMENT.**

This is known as the Oakland, or 50,000 population amendment, as distinguished from the so-called San Francisco, or 175,000 population amendment. Both are amendments of section 8 1/2 of article XI of the constitution, governing the formation of combined city and county governments. The Oakland amendment would permit any city of over 50,000 population to form a combined city and county government; the San Francisco amendment fixes the minimum population at 175,000. The former prohibits and the latter permits the indiscriminate crossing of county lines.

This so-called Oakland or 50,000 population amendment should be adopted because it permits the normal formation and expansion of combined city and county governments, and because it prohibits the disintegration of counties in the course of such formation or expansion.

The formation of combined city and county governments does away with unnecessary duplication in the creation and filling of public offices and in the doing of public business. When taxes are levied upon the same piece of property to raise money with which to pay a city official and a county official for performing the same or a similar public service, such taxes are unnecessarily burdensome, and public funds are wasted. The formation of combined city and county governments eliminates this double

taxation, without depriving the communities concerned of the benefits of either city or county government.

A further reason for adopting this proposed amendment is that it puts a stamp of disapproval upon ail attempts of San Francisco to cross San Francisco bay for the purpose of annexing the choicest portions of the counties on the east and on the north. It permits San Francisco to expand down the peninsula, along logical and natural lines, and where such expansion is apparently desired, but it prevents any such expansion across the natural barrier of San Francisco bay, an expansion which if permitted would in time make San Francisco in California what New York city is in New York state--the dominant factor in the political and official life of the entire state.

The amendment should be adopted because it permits the normal and beneficial formation and expansion of combined city and county governments, and prevents the abnormal and detrimental in the expansion of such governments.

After careful investigation, the chambers of commerce and the public officials of Los Angeles and of San Francisco have abandoned their support of the so-called 175,000 population amendment, the amendment that would permit San Francisco to annex all or parts of Alameda, Contra Costa and Marin counties, as well as San Mateo, and have publicly endorsed and approved this, the 50,000 population amendment, the amendment that would permit San Francisco to expand down the peninsula, and would permit other cities besides San Francisco and Los Angeles to form city and county governments; and have joined with the other cities throughout the state in asking that this proposed constitutional amendment be adopted.

FOR(au) Charles A. Beardsley

Against

ARGUMENT AGAINST OAKLAND CONSOLIDATION AMENDMENT.

The substitute amendment to section 8 1/2 of article XI of the Constitution of the State of California, submitted by the city of Oakland and subsequently accepted by San Francisco and Los Angeles, should be designated *an amendment to permit secession of cities and the division of counties.*

It is a measure designed to magnify the political powers of the three cities named, and permit them, by augmenting their areas, to dominate the State of California in the legislature.

It is an effort on the part of the special interests entrenched in cities to extend their taxing powers and exploit the people, through the purchase of certain utilities involving vast bonded indebtedness. Its initiative lies in the desire to distribute the liabilities for the water supplies and other corporate properties to be purchased by San Francisco and Los Angeles.

It involves the appropriation for exclusive municipal use of waters that are necessary to the development of the farms, the orchards, and the mines, upon which the prosperity of the state depends.

It is a cunningly devised scheme to dismember and weaken the counties and to withhold contribution by the cities to the development of the back country from which they draw their patronage and sustenance.

It further permits any city with a population of fifty thousand or over to withdraw or secede from the county in which it is located, with such territory and taxable property as it may take, and set up a city and county government separate from the county of which it was formerly a part.

Los Angeles does not disguise its design, by annexing certain communities, to coerce them into taking the Owens river water, augmenting municipal revenues, and openly declares its purpose of seceding from the county of Los Angeles, and forming a city and county of Los Angeles, as San Francisco has already done, and as Oakland appears to be ambitious of doing.

The joint assets of San Francisco, of Oakland, and of the other east bay shore cities are to be massed through this amendment in liability for the Spring Valley purchase and other items in the San Francisco water supply scheme, as those of Los Angeles county are to support the Owens river project. The "working agreement" between politicians and financiers promoting this amendment is another evidence that "special interests, make strange bedfellows."

Purchasing immunity at the price of bad faith, Oakland makes an alliance with its former enemies at the expense of its former friends, and, casting consistency to the winds, consents to the dismemberment of other counties, provided its own territory is protected from invasion.

Every argument which Oakland advanced to the people of California two years ago in its own defense may be invoked against the amendment which it now advocates.

In its frantic appeal to the voters of the state to protect it from "the menace" of annexation to San Francisco, Oakland argued against the amendment permitting county division because--(*a*) "it is special legislation of the most vicious sort"; (*b*) it "breaks down the present constitutional defense of the territorial integrity of counties"; (*c*) "it facilitates the division and dismemberment of counties"; (*d*) "it is a measure that will contribute to increase the political power and prestige of the San Francisco machine and enable it to dominate the political situation in California as completely as Tammany Hall does in New York"; (*e*) "if adopted, it will make it possible for San Francisco and Los Angeles to control absolutely the legislature of California"; (*f*) "it would open the way for San Francisco to secure control of practically all the commercial water front of both sides of the bay, to throttle competition in ocean commerce, and to nullify the advantages to the people of the Panama canal"; (*g*) "it would saddle upon the cities to be annexed a staggering burden of bonded indebtedness"; (*h*) *"its adoption would be a statewide calamity."*

If this was true then, it is true now!

Responding to Oakland's cry of distress, the people of California defeated the amendment two years ago by 106,000 majority, with an adverse vote in every county except San Francisco and the counties of San Mateo and Marin, which San Francisco commuters dominate.

Now, Oakland, upon the assurance that, *for the present,* San Francisco puts aside its ambition to annex Oakland and is content to absorb San Mateo county, makes

common cause with San Francisco and Los Angeles in an effort to force upon the counties of California a measure which is a menace to their political and territorial integrity, an amendment which will strengthen the special interests which govern the great cities, so notoriously corrupt, in the control of the legislature of the State of California. Such predominating power in the large cities would mean that they would secure legislation favorable to their interests and the lion's share of the revenue produced by the people of California in appropriations for the benefit of these cities at the expense of the rest of the state.

It is inconceivable that the citizens of California can be deceived by the specious arguments of this "triple alliance" into voting to create an oligarchy of cities to dominate the state.

On both the original San Francisco-Los Angeles amendment to section 8 1/2 of article XI of the Constitution of the State of California, and the Oakland substitute, which is now supported by the politicians and private interests of all three cities, the people of the State of California should vote "No."

Against(au) Edw. K. Strobridge |t State Senator Thirteenth District

Text of Prop. The electors of the State of California present to the secretary of state this initiative petition asking that the Constitution of the State of California be amended as hereinafter set forth, and the following amendment to said constitution be submitted to the electors of the State of California for their approval or rejection, at the general election to be held in the month of November, 1914.

That section eight and one half of article eleven of the Constitution of the State of California, relating to the powers conferred on cities, and cities and counties, by the adoption of charters, or amendments thereof, be amended so as to provide for the extension of such powers, the consolidation of city and county governments, the annexation of territory thereto, and the assumption of bonded indebtedness by territory annexed to or consolidated with an incorporated city or city and county, and to read as follows:

PROPOSED LAW.

Section 8 1/2. It shall be competent, in all charters framed under the authority given by section eight of **this** article to provide, in addition to those provisions allowable by this constitution and by the laws of the state as follows:

1. For the constitution, regulation, government, and jurisdiction of police courts, and for the manner in which, the times at which, and the terms for which the judges of such courts shall be elected or appointed, and for the qualifications and compensation of said judges and of their clerks and attaches; **and for the establishment, constitution, regulation, government and jurisdiction of municipal courts; with such civil and criminal jurisdiction as by law may be conferred upon inferior courts; and for the manner in which, the times at which, and the terms for which the judges of such courts shall be elected or appointed, and for the qualifications and compensation of said judges and of their clerks and attaches; provided such municipal courts shall never be deprived of the jurisdiction given inferior courts created by general law.**

In any city or any city and county, when such municipal court has been established, there shall be no other court inferior to the superior court; and pending actions, trials, and all pending business of inferior courts within the territory of any city or city and county, upon the establishment of any such municipal court, shall be and become pending in such municipal court, and all records of such inferior courts shall thereupon be and become the records of such municipal court.

2. For the manner in which, the times at which, and the terms for which the members of boards of education shall be elected or appointed, for their qualifications, compensation and removal, and for the number which shall constitute any one of such boards.

3. For the manner in which, the times at which, and the terms for which the members of the **boards of police commissioners shall be elected or appointed; and for the constitution, regulation, compensation, and government of such boards and of the municipal police force.**

4. For the manner in which and the times of which any municipal election shall be held and the result thereof determined; for the manner in which, the times at which, and the terms for which the members of all boards of election shall be elected or appointed, and for the constitution, regulation, compensation and government of such boards, and of their clerks and attaches, and for all expenses incident to the holding of any election.

It shall be competent to any charter framed in accordance with the provisions of this section, or section eight of this article, for any city or consolidated city and county, and plenary authority is hereby granted, subject only to the restrictions of this article, to provide therein or by amendment thereto, the manner in which, the method by which, the times at which, and the terms for which the several county and municipal officers and employes whose compensation is paid by such city or city and county, excepting judges of the superior court, shall be elected or appointed, and for their recall and removal, and for their compensation, and for the number of deputies, clerks and other employes that each shall have, and for the compensation, method of appointment, qualifications, tenure of office and removal of such deputies, clerks and other employes. All provisions of any charter of any such city or consolidated city and county, heretofore adopted, and amendments thereto, which are in accordance herewith, are hereby confirmed and declared valid.

5. It shall be competent in any charter or amendment thereof, which shall hereafter be framed under the authority given by section eight of this article, by any city having a population in excess of 50,000 ascertained as prescribed by said section eight, to provide for the separation of said city from the county of which it has theretofore been a part and the formation of said city into a consolidated city and county to be governed by such charter, and to have combined powers of a city and county, as provided in this constitution for consolidated city and county government, and further to prescribe in said charter the date for the beginning of the official existence of said city and county.

It shall also be competent for any such city, not having already consolidated as a city and county to hereafter frame, in the manner prescribed in section eight of this article, a charter providing for a city and county government, in which charter there shall be prescribed territorial boundaries which may include contiguous territory not

included in such city, which territory, however, must be included in the county within which such city is located.

If no additional territory is proposed to be added, then, upon the consent to the separation of any such city from the county in which it is located, being given by a majority of the qualified electors voting thereon in such city, and the approval thereof by the legislature, as prescribed in section eight of this article, said charter shall be deemed adopted and upon the date fixed therein said city shall be and become a consolidated city and county.

If additional territory which consists wholly of only one incorporated city or town, or which consists wholly of unincorporated territory, is proposed to be added, then, upon the consent to such separation of such territory and of the city initiating the consolidation proposal being given by a majority of the qualified electors voting thereon in the county in which the city proposing such separation is located, and upon the ratification of such charter by a majority of the qualified electors voting thereon in the whole of such additional territory, and the approval of said charter by the legislature, as prescribed in section eight of this article, said charter shall be deemed adopted, the indebtedness hereinafter referred to shall be deemed to have been assumed, and upon the date fixed in said charter such territory and such city shall be and become one consolidated city and county.

The proposal to be submitted to the territory proposed to be added shall be substantially in the following form and submitted as one indivisible question:

"Shall the territory (herein designated in general terms the territory to be added) consolidate with the city of (herein insert name of the city initiating the proposal to form a city and county government) in a consolidated city and county government, and shall the charter as prepared by the city of (herein insert the name of the city initiating such proposition) be adopted as the charter of the consolidated city and county, and shall the said added territory become subject to taxation along with the entire territory of the proposed city and county, in accordance with the assessable valuation of the property of the said territory, for the following indebtedness of said city (herein insert name of the city initiating such proposition) to-wit: (herein insert in general terms reference to any debts to be assumed, and if none insert 'none')."

If additional territory is proposed to be added, which includes unincorporated territory and one or more incorporated cities or towns, or which includes more than one incorporated city or town, the consent of any such incorporated city or town shall be obtained by a majority vote of the qualified electors thereof voting upon a proposal substantially as follows:

"Shall (herein insert the name of the city or town to be included in such additional territory) be included in a district to be hereafter defined by the city of (herein insert the name of the city initiating the proposition to form a city and county government) which district shall, within two years from the date of this election, vote upon a proposal submitted as one indivisible question that such district to be then described and set forth shall consolidate with (herein insert name of the city initiating said consolidation proposition) in a consolidated city and county government, and also that a certain charter, to be prepared by the city of (herein insert name of the city initiating such

proposition) be adopted as the charter of such consolidated city and county, and that such district become subject to taxation along with the entire territory of the proposed city and county in accordance with the assessable valuation of the property of said district for the following indebtedness of said city of (herein insert name of the city initiating such proposition) to-wit: (herein insert in general terms, reference to any debts to be assumed and if none insert 'none')."

Any and all incorporated cities or towns to which the foregoing proposal shall have been submitted and a majority of whose qualified electors voting thereon shall have voted in favor thereof, together with such unincorporated territory as the city initiating such consolidation proposal may desire to have included, the whole to form an area contiguous to said city, shall be created into a district by such city, and the proposal substantially as above prescribed to be used when the territory proposed to be added consists wholly of only one incorporated city or town, or wholly of unincorporated territory, shall within two years, be submitted to the voters of said entire district as one indivisible question.

Upon consent to the separation of such district and of the city initiating the consolidation proposal being given by a majority of the qualified electors voting thereon in the county in which the city proposing such separation is located, and upon the ratification of such charter by a majority of the qualified electors voting thereon in such city, and upon the approval of the proposal hereinbefore set forth by a majority of the qualified electors voting thereon in the whole of the said district so proposed to be added, and upon the approval of said charter by the legislature, as prescribed in section eight of this article, said charter shall be deemed adopted, the said indebtedness referred to in said proposal shall be deemed to have been assumed, and upon the date fixed in said charter, such district and such city shall be and become one consolidated city and county.

6. It shall be competent for any consolidated city and county now existing, or which shall hereafter be organized, to annex territory contiguous to such consolidated city and county, unincorporated or otherwise, whether situated wholly in one county, or parts thereof be situate in different counties, said annexed territory to be an integral part of such city and county, provided that such annexation of territory shall only include any part of the territory which was at the time of the original consolidation of the annexing city and county, within the county from which such annexing city and county was framed, together with territory which was concurrently, or has since such consolidation been joined in a county government with the area of the original county not included in such consolidated city and county.

If additional territory, which consists wholly of only one incorporated city, city and county, or town, or which consists wholly of unincorporated territory, is proposed to be annexed to any consolidated city and county now existing or which shall hereafter be organized, then, upon the consent to any such annexation being given by a majority of the qualified electors voting thereon in which any such additional territory is located, and upon the approval of such annexation proposal by a majority of the qualified electors voting thereon in such city and county, and also upon the approval of the proposal hereinafter set forth by a majority of the qualified electors voting thereon in the whole of such territory proposed to be annexed, the indebtedness hereinafter referred to shall be deemed to have been assumed, and at the time stated in such

proposal, such additional territory and such city and county shall be and become one consolidated city and county, to be governed by the charter of the city and county proposing such annexation, and any subsequent amendment thereto.

The proposal to be submitted to the territory proposed to be annexed, shall be substantially in the following form and submitted as one indivisible question:

"Shall the territory (herein designate in general terms the territory to be annexed) consolidate with the city and county of (herein insert the name of the city and county initiating the annexation proposal) in a consolidated city and county government, said consolidation to take effect (herein insert date when such consolidation shall take effect) and shall the said annexed territory become subject to taxation, as an integral part of the city and county so formed, in accordance with the assessable valuation of property of said territory for the following indebtedness of said city and county of (herein insert name of the city and county) to-wit: (herein insert in general terms, reference to any debts to be assumed and if none insert 'none')."

If additional territory including unincorporated territory and one or more incorporated cities, cities and counties, or towns, or including more than one incorporated city, city and county, or town, shall be obtained by a majority vote of the qualified electors of each such incorporated city, city and county, or town, voting upon a proposal substantially as follows:

"Shall (herein insert name of the city, city and county, or town, to be included in such annexed territory) be included in a district to be hereafter defined by the city and county of (herein insert the name of the city and county, or town initiating the annexation proposal) which district shall within two years from the date of this election vote upon a proposal submitted as one indivisible question, that such district to be then described and set forth shall consolidate with (herein insert name of the city and county initiating the annexation proposal) in a consolidated city and county government, and that such district become subject to taxation, along with the entire territory, of the proposed city and county in accordance with the assessable valuation of the property of said district for the following indebtedness of said city and county of (herein insert name of the city and county initiating the annexation proposal) to-wit: (herein insert in general terms, reference to any debts to be assumed and if none insert 'none')."

Any and all incorporated cities, cities and counties, or towns, to which the foregoing proposal shall have been submitted, and a majority of whose qualified electors voting thereon shall have voted in favor thereof, together with such unincorporated territory as the city and county initiating such annexation proposal may desire to have included, the whole to form an area contiguous to said city and county, and the proposal substantially in the form above set forth to be used when the territory proposed to be added consists wholly of only one incorporated city, city and county, or town, or wholly of unincorporated territory, shall, within said two years, be submitted to the voters of said entire district as one indivisible question.

Upon consent to any such annexation being given by a majority of the qualified electors voting thereon in any county or counties in which any such territory proposed to be annexed to said city and county is located, and upon the approval of any such annexation proposal by a majority of the qualified electors

voting thereon in such city and county proposing such annexation, and also upon the approval of the proposal hereinbefore set forth by a majority of the qualified electors voting thereon in the whole of the district so proposed to be annexed, then, the said indebtedness referred to in said proposal shall be deemed to have been assumed, and upon the date stated in such annexation proposal such district and such city and county shall be and become one consolidated city and county, to be governed by the charter of the city and county proposing such annexation, and any subsequent amendment thereto.

Whenever any proposal is submitted to the electors of any county, territory, district, city, city and county, or town, as above provided, there shall be published, for at least five successive publications in a newspaper of general circulation printed and published in any such county, territory, district, city, city and county, or town, the last publication to be not less than twenty days prior to any such election, a particular description of any territory or district to be separated, added, or annexed, together with a particular description of any debts to be assumed, as above referred to, unless such particular description is contained in the said proposal so submitted. In addition to said description, such territory shall also be designated in such notice by some appropriate name or other words of identification, by which such territory may be referred to and indicated upon the ballots to be used at any election at which the question of annexation or consolidation of additional territory is submitted as herein provided. If there be no such newspaper so printed and published by any such county, territory, district, city, city and county, or town, then such publication may be made in any newspaper of general circulation printed and published in the nearest county, city, city and county, or town where there may be such a newspaper so printed and published.

If, by the adoption of any charter, or by annexation, any incorporated municipality becomes a portion of a city and county, its property, debts and liabilities of every description shall be and become the property, debts and liabilities of such city and county.

Every city and county which shall be formed, or the territory of which shall be enlarged as herein provided from territory taken from any county or counties, shall be liable for a just proportion of the debts and liabilities and be entitled to a just proportion of the property and assets of such county or counties, existing at the time such territory is so taken.

The provisions of this constitution applicable to cities, and cities and counties, and also those applicable to counties, so far as not inconsistent or prohibited to cities, or cities and counties, shall be applicable to such consolidated city and county government; and no provision of subdivision 5 or 6 of this section shall be construed as a restriction upon the plenary authority of any city or city and county having a freeholders' charter, as provided for in this constitution, to determine in said charter any and all matters elsewhere in this constitution authorized and not inconsistent herewith.

The legislature shall provide for the formation of one or more counties from the portion or portions of a county or counties remaining after the formation of or annexation to a consolidated city and county, or for the transfer of such portion or portions of such original county or counties to adjoining counties. But such transfer to an adjoining county shall only be made after approval by a majority vote of the

qualified electors voting thereon in such territory proposed to be so transferred.

The provisions of section two of this article, and also those provisions of section three of this article which refer to the passing of any county line within five miles of the exterior boundary of a city or town in which a county seat of any county proposed to be divided is situated, shall not apply to the formation of, nor to the extension of the territory of such consolidated cities and counties, nor to the formation of new counties, nor to the annexation of existing counties, as herein specified.

Any city and county formed under this section shall have the right, if it so desires, to be designated by the official name of the city initiating the consolidation as it existed immediately prior to its adoption of a charter providing for a consolidated city and county government, except that such city and county shall be known under the style of a city and county.

It shall be competent in any charter framed for a consolidated city and county, or by amendment thereof, to provide for the establishment of a borough system of government for the whole or any part of the territory of said city and county, by which one or more districts may be created therein, which districts shall be known as boroughs and which shall exercise such municipal powers as may be granted thereto by such charter, and for the organization, regulation, government and jurisdiction of such boroughs.

No property in any territory hereafter consolidated with or annexed to any city or city and county shall be taxed for the payment of any indebtedness of such city or city and county outstanding at the date of such consolidation or annexation and for the payment of which the property in such territory was not, prior to such consolidation or annexation, subject to such taxation, unless there shall have been submitted to the qualified electors of such territory the proposition regarding the assumption of indebtedness as hereinbefore set forth and the name shall have been approved by a majority of such electors voting thereon.

7. In all cases of annexation of unincorporated territory to an incorporated city, or the consolidation of two or more incorporated cities, assumption of existing bonded indebtedness by such unincorporated territory or by either of the cities so consolidating may be made by a majority vote of the qualified electors voting thereon in the territory or city which shall assume an existing bonded indebtedness. This provision shall apply whether annexation or consolidation is effected under this section or any other section of this constitution, and the provisions of section eighteen of this article shall not be a prohibition thereof.

The legislature shall enact such general laws as may be necessary to carry out the provisions of this section and such general or special laws as may be necessary to carry out the provisions of subdivisions 5 and 6 of this section, including any such general or special act as may be necessary to permit a consolidated city and county to submit a new charter to take effect at the time that any consolidation, by reason of annexation to such consolidated city and county, takes effect, and also, any such general law or special act as may be necessary to provide for any period after such consolidation, by reason of such annexation, takes effect, and prior to the adoption and approval of any such new charter.

Section 8 1/2. It shall be competent, in all charters framed under the authority given by section eight of article *eleven of this constitution,* to provide, in addition to those provisions allowable by this constitution and by the laws of the state, as follows:

EXISTING LAW.

1. For the constitution, regulation, government, and jurisdiction of police courts, and for the manner in which, the times at which, and the terms for which the judges of such courts shall be elected or appointed, and for the qualifications and compensation of said judges and of their clerks and attaches.

2. For the manner in which, the times at which, and the terms for which the members of boards of education shall be elected or appointed, for their qualifications, compensation and removal, and for the number which shall constitute any one of such boards.

3. For the manner in which, the times at which, and the terms for which the members of the boards of police commissioners shall be elected or appointed, and for the constitution, regulation, compensation, and government of such boards and of the municipal police force.

4. For the manner in which and the tines at which any municipal election shall be held and the result thereof determined; for the manner in which, the times at which, and the terms for which the members of all boards of election shall be elected or appointed, and for the constitution, regulation, compensation and government of such boards, and of their clerks and attaches; and for all expenses incident to the holding of any election.

Where a city and county *government has been merged and* consolidated *into one municipal government,* it shall *also* be competent, in any charter framed *under said* section eight of *said* article *eleven,* or by amendment thereto, to provide *for* the manner in which, the times at which and the terms for which the several county and municipal officers and employees whose compensation is paid by such city and county, excepting judges of the superior court, shall be elected or appointed, and for their recall and removal, and for their compensation, and for the number of deputies, clerks and other employees that each shall have, and for the compensation, method of appointment, qualifications, tenure of office and removal of such deputies, clerks and other employees. All provisions of any charter of any such consolidated city and county heretofore adopted, and amendments thereto, which are in accordance herewith, are hereby confirmed and declared valid.

CODE Amended Cal. Const. art. XI, section 8 1/2.

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Full Text

Record: 13

Proposition #	**25**
Title	**ADOPTION AND AMENDMENT OF MUNICIPAL CHARTERS**
Year/Election	**1914** general
Proposition type	aca
Popular vote	Yes: 285,338 (55.7%); No: 226,679 (44.3%)
Pass/Fail	Pass
Summary	Authorizes cities of more than thirty-five hundred population to adopt charters; prescribes method therefor, and time for preparation thereof by freeholders; requires but one publication thereof, copies furnished upon application; provides for approval by legislature, method and time for amendment, and that of several conflicting concurrent amendments one receiving highest vote shall prevail; authorizes charter to confer on municipality all powers over municipal affairs, to establish boroughs and confer thereon general and special municipal powers.

For

ARGUMENT IN FAVOR OF ASSEMBLY CONSTITUTIONAL AMENDMENT NO. 25.

This amendment has been drawn to simplify and make definite the provisions by which cities may frame and adopt their charters, so that the validity of the organization of cities thereunder can not be questioned. Two main purposes are served by the amendment:

First--It permits a general grant of power, as to municipal affairs, to be made to a city government by charter instead of necessitating the enumeration of a long list of powers to be exercised, as has been done heretofore. The large numbers of charter amendments offered at each session of the legislature have been made necessary because important powers have been omitted from the original enumeration.

Second--It clears up the present uncertainty as to the times at which a charter election may be held, permitting the cities to hold such elections at any time within six months prior to the regular session of the legislature or at any time during the regular session. As the general state election is held in all cities in November prior to the meeting of the legislature, this will enable the cities to hold their charter election at the same time without additional expense.

Other improvements briefly are as follows:

Third--Provides that petitions for charter elections shall be verified by the officer in

custody of the registration records. The present provision puts that duty on the city clerk who, in most cities, has nothing to do with those records.

Fourth--It extends the time for considering a choice of freeholders to thirty days. The present provision limits it to twenty days.

Fifth--It permits nominations for freeholder to be made in the simple form used by many cities in nominating municipal officers, as well as by petition under general laws.

Sixth--It permits the time for drawing a charter to be extended sixty days with the consent of the legislative body of the city. Present requirement is that a charter shall be completed in 120 days, which is often too short.

Seventh--Calls for only one publication (instead of ten) in the official paper, and provides further for circulation of the charter in convenient pamphlet form among the voters. The blanket form of publication for charters makes it difficult to read them.

Eighth--Allows at least sixty days for a charter campaign; time is now twenty to forty--too short for a general circulation of the charter, and full discussion.

Ninth--Provides that in case of conflict in the provisions of two or more amendments to a charter the one receiving the higher vote shall govern as to matters in conflict.

Tenth--Simplifies the provision for organization of boroughs.

Eleventh--Reduces the length of this section from five pages to three.

The exceeding complexity of the amendment to this section of the constitution adopted in 1911 has raised many problems in adopting charters or amending them afterwards. This amendment clears up doubts and makes the system simple, certain and flexible.

FOR(au) Wm. C. Clark |t Assemblyman Thirty-seventh District

FOR(au) Arthur L. Shannon |t Assemblyman Thirty-second District

Text of Prop. Assembly Constitutional Amendment No. 25, a resolution to propose to the people of the State of California an amendment to section eight of article eleven of the Constitution of the State of California relating to municipal corporations.

The legislature of the State of California, at its regular session commencing on the sixth day of January, 1913, two thirds of the members elected to each of the two houses of said legislature voting in favor thereof, hereby proposes that section 8 of article XI of the Constitution of the State of California be amended to read as follows:

PROPOSED LAW.

Section 8. Any city **or city and county** containing a population of more than three thousand five hundred inhabitants, as ascertained by the last preceding census taken under the **authority** of the congress of the United States or **of the legislature of California,** may **from** a charter for its own government, consistent with and subject to

this constitution; and any city, or city and county having adopted a charter may adopt a new one. Any such charter shall be framed by a board of fifteen freeholders chosen by the electors of such city at any general or special election; but no person shall be eligible as a candidate for such board unless he shall have been, for the five years next preceding, an elector of said city. An election for choosing freeholders may be called by a two- thirds vote of the legislative body of such city, and, on presentation of a petition signed by not less than fifteen per cent of the registered electors of such city, the legislative body shall call such election at any time not less than thirty nor more than sixty days from the date of the filing of the petition. Any such petition shall be verified by the authority having charge of the registration records of such city or city and county and the expenses of such verification shall be provided by the legislative body thereof. Candidates for the office of freeholders shall be nominated either in such manner as may be provided for the nomination of officers of the municipal government or by petition, substantially in the same manner as may be provided by general laws for the nomination by petition of electors of candidates for public offices to be voted for at general elections. The board of freeholders shall, within one hundred twenty days after the result of the election is declared, prepare and propose a charter for the government of such city; but the said period of one hundred and twenty days may with the consent of the legislative body of such city be extended by such board not exceeding a total of sixty days. The charter so prepared shall be signed by a majority of the board of freeholders and filed, in the office of the clerk of the legislative body of said city. The legislative body of said city shall within fifteen days after such filing cause such charter to be published once in the official paper of said city; (or in case there be no such paper, in a paper of general circulation); and shall cause copies of such charter to be printed in convenient pamphlet form, and shall, until the date fixed for the election upon such charter, advertise in one or more papers of general circulation published in said city a notice that such copies may be had upon application therefor. Such charter shall be submitted to the electors of such city at a date to be fixed by the board of freeholders, before such filing and designated on such charter, either at a special election held not less than sixty days from the completion of the publication of such charter as above provided, or at the general election next following the expiration of said sixty days. If a majority of the qualified voters voting thereon at such general or special election shall vote in favor of such proposed charter, it shall be deemed ratified, and shall be submitted to the legislature, if then in session, or at the next regular or special session of the legislature. The legislature shall by concurrent resolution approve or reject such charter as a whole, without power of alteration or amendment; and if approved by a majority of the members elected to each house it shall become the organic law of such city or city and county, and supersede any existing charter and all laws inconsistent therewith. One copy of the charter so ratified and approved shall be filed with the secretary of state, one with the recorder of the county in which such city is located, and one in the archives of the city; and thereafter the courts shall take judicial notice of the provisions of such charter. The charter of any city or city and county may be amended by proposals therefor submitted by the legislative body of the city on its own motion or on petition signed by fifteen per cent of the registered electors, or both. Such proposals shall be submitted to the electors only during the six months next preceding a regular session of the legislature or thereafter and before the final adjournment of that session and at either a special election called for that purpose or at any general or special election. Petitions for the submission of any amendment shall be filed with the legislative body of the city or city and county not less than sixty days prior to the general election next preceding a regular

session of the legislature. The signatures on such petitions shall be verified by the authority having charge of the registration records of such city or city and county, and the expenses of such verification shall be provided by the legislative body thereof. If such petitions have a sufficient number of signatures the legislative body **of the city or city and county shall** so submit the amendment or amendments so **proposed** to the electors. **Amendments proposed by the legislative body and amendments proposed by petition of the electors may be submitted at the same election. The amendments so submitted shall be advertised in the same manner as herein provided for the advertisement of a proposed charter, and the election thereon held at a date to be fixed by the legislative body of such city,** not less than **forty and not** more than **sixty** days after the completion of the **advertising in the official paper.** If a majority of **the** qualified **voters** voting **on** any such amendment vote in favor **thereof it** shall be deemed ratified, and shall be submitted to the legislature **at the** regular session next **following such election; and approved** or **rejected** without power of alteration **in the same manner as herein provided for the approval or rejection of a charter.** In submitting any such charter or amendment **separate propositions, whether** alternative or **conflicting, or one included within the other,** may be **submitted at the same time to be** voted on by the electors separately **and, as between those so related, if more than one receive a majority of the votes, the proposition receiving the larger number of votes shall control as to all matters in conflict.** It shall be competent in any charter framed under the authority **of** this section **to provide that the municipality governed thereunder may make and enforce all laws and regulations in respect to municipal affairs, subject only to the restrictions and limitations provided in their several charters and in respect to other matters they shall be subject to general laws. It shall be competent in any charter** to provide for the **division of the city or city and county governed thereby into** boroughs or districts, and **to provide that each such borough or district may** exercise such **general or** special municipal powers, **and to be administered in such manner, as may be provided for each such borough or district in the charter of the city or city and county.**

The percentages of the registered electors herein required for the election of freeholders or the submission of amendments to charters shall be calculated upon the total **vote** cast **in the city or city and county** at the last preceding general **state** election; **and the qualified electors shall be those whose names appear upon the registration records of the same or preceding year. The election laws of such city or city and county shall, so far as applicable govern all elections held under the authority of this section.**

Section 8, article XI, proposed to be amended, now reads as follows:

EXISTING LAW.

Section 8. Any city containing a population of more than three thousand five hundred inhabitants as ascertained *and established* by the last preceding census, taken under the *direction* of the congress of the United States, or *by a census of said city, taken, subsequent to the aforesaid census, under the direction of the legislative body thereof, under laws authorizing the taking of the census of cities,* may *frame* a charter for its own government, consistent with, and subject to, *the* constitution (*or,* having *framed such* a charter, may *frame* a new one), by *causing* a board of fifteen freeholders,

who shall have been, for *at least* five years, *qualified electors thereof, to be elected* by the *qualified* electors of *said* city, at *a* general or special *municipal* election. *Said board of* freeholders may be *so elected in pursuance of an ordinance adopted* by a vote *of* two thirds of *all* the *members of the council, or other* legislative body, of such city, *declaring that the public interest requires the election of such board for the purpose of preparing and proposing a charter for said city, or in pursuance* of a petition *of qualified electors of said city, as hereinafter provided. Such petition,* signed by fifteen per *centum* of the *qualified* electors of *said* city *computed* upon the total *number of votes* cast *therein for all candidates for governor* at the last preceding general election *at which a governor was elected, praying for the election of a board of fifteen freeholders to prepare and propose a charter for said city, may be filed in the office of the city clerk thereof. It shall be the duty of said city clerk, within twenty days after the filing of said petition, to examine the same and to ascertain from the record of the* registration *of electors of the county, showing the registration of electors of said* city, *whether the petition is signed by the requisite number of qualified electors of such city. If required by said clerk,* the *council, or other* legislative body, *of said city shall authorize him to employ persons specially to assist him in the work of examining such petition, and shall provide for their compensation. Upon the completion of such examination, said clerk shall forthwith attach to said petition his certificate, properly dated, showing the result thereof, and if, by said certificate, it shall appear that said petition is signed by the requisite number of qualified electors, said clerk shall present the said petition to said council, or other legislative body, at its next regular meeting after the date of such certificate. Upon the adoption of such ordinance, or the presentation of such petition, said council, or other* legislative body, shall *order the holding of a special* election *for the purpose of electing such board of freeholders, which said special election shall be held* not less than *twenty days,* nor more than sixty days *after the adoption of the ordinance aforesaid, or* the *presentation* of *said* petition *to said council, or other legislative body; provided, that if a general municipal election shall occur in said city not less than twenty days, nor more than sixty days, after the adoption of the ordinance aforesaid, or the presentation of said petition to said council, Or other legislative body, said board of freeholders may be elected at such general municipal election.* Candidates for *election as members of said board* of freeholders shall be nominated by petition, substantially in the same manner as may be provided by general laws for the nomination by petition of electors of candidates for public offices to be voted for at general elections.

It shall be the *duty of said* board of freeholders, within one hundred and twenty days after the result of *such* election *shall have been* declared *by said council, or other legislative body, to* prepare and propose a charter for *said* city, *which* shall be signed *in duplicate* by the *members of said board of* freeholders, *or* a majority of *them,* and *be* filed, *one copy* in the office of the *city* clerk of said city, *and the other in the office of the county recorder of the county in which said city is situated. Said council, or other* legislative body, shall, *thereupon,* cause *said proposed* charter to be published *for at least ten times,* in a *daily newspaper* of general circulation, *printed, published and circulated in said city; provided, that in any city where no such daily newspaper is printed, published and circulated, such proposed charter shall be published, for at least three times, in at least one weekly newspaper of general circulation, printed, published and circulated in said city, and, in any event, the first publication of such proposed charter shall be made* within fifteen days after *the* filing *of a copy thereof, as aforesaid, in the office of the city clerk.* Such *proposed* charter shall be submitted *by said council, or other legislative body,* to the *qualified* electors of *said* city at a special election held

not less than *twenty* days, *nor more than forty days, after* the completion of *such* publication; *provided, that if a* general *municipal* election *shall occur in said city not less than twenty days, nor more than forty days, after the completion of such publication, then such proposed charter may be so submitted at such general election.* If a majority of *such* qualified electors voting thereon at such general or special election shall vote in favor of such proposed charter, it shall be deemed to be ratified, and shall be submitted to the legislature, if *it be* in *regular* session, *otherwise* at *its* next regular session, *or it may be submitted to the legislature in extraordinary session, for its approval* or *rejection* as a whole, without power of alteration or amendment. *Such approval may be made* by concurrent resolution, and if approved by a majority *vote* of the members elected to each house, *such charter* shall become the *charter* of such city, or, *if such city be consolidated with a county, then of such* city and county, *and shall become the* organic law *thereof,* and supersede any existing charter *(whether framed under the provisions of this section of the constitution or not), and all amendments thereof,* and all laws inconsistent *with such charter. A* copy of *such* charter, *certified by the mayor, or other chief executive officer of said city, and authenticated under the seal of such city, setting forth the submission of such charter to the electors of said city, and its ratification by them,* shall, *after the approval of such charter by the legislature,* be *made in duplicate and deposited,* one *in* the *office* of the secretary of state *and the other, after being recorded in the office of* the recorder of the county in which such city is *situated, shall be deposited* in the archives of the city, and thereafter *all* courts shall take judicial notice of *said* charter.

The charter, *so ratified,* may be amended by proposals therefor submitted by the *council, or other* legislative body of the city, to the *qualified* electors *thereof* at a general or special *municipal* election *held at intervals of not less than two years (except that charter amendments may be submitted at a general municipal election at an interval of less than two years after the last election on charter amendments provided that no other election on charter amendments has been held since the beginning of* the *last* regular session of the *state* legislature *or shall be held prior to the next regular session of the state legislature), and held not less than twenty days, nor more than forty days, after the completion of the publication of such proposals for ten times in a daily newspaper of general circulation, printed, published and circulated in said city, or for three times in at least one weekly newspaper of general circulation, printed, published and circulated in said city, if there be no such daily newspaper.* If a majority of *such* qualified *electors* voting *thereon at such general or special election shall* vote in favor *of any such proposed* amendment *or amendments, or any amendment or amendments proposed by petition, as hereinafter provided, such amendment or amendments* shall be deemed *to be* ratified, and shall be *forthwith* submitted to the legislature, *if it be in regular session, otherwise* at *its* next regular session, *or may be submitted to the legislature in extraordinary session, for approval* or *rejection as a whole,* without power of alteration *or amendment, and if approved by the legislature, as herein provided for the approval of the charter, such charter shall be amended accordingly. A copy of such amendment or amendments shall, after the approval thereof by the legislature, be made in duplicate, and shall be authenticated, certified, recorded and filed as herein provided for the charter, and with like force and effect. Whenever a* petition signed by fifteen per *centum* of the *qualified* electors *of the city, computed* upon the total *number of votes* cast *therein for all candidates for governor* at the last preceding general election *at which a governor was elected, is* filed *in the office of the city clerk of said* city, *petitioning the council, or other legislative body thereof, to submit any proposed amendment or amendments to the charter of such city, which amendment or amendments shall be set forth in full in such petition, to the qualified electors thereof, such petition shall forthwith be examined and*

certified by the city clerk, and if signed by the requisite number of qualified electors of said city, it shall be presented to the said council, or other legislative body, by the said city clerk, as hereinbefore provided for petitions for the election of boards of freeholders. Upon the presentation of said petition to said council, or other legislative body, said council, or other legislative body, *must* submit the amendment or amendments *set forth in said petition* to the *qualified* electors *of said city, at a* general or special *municipal* election, held not less than *twenty, nor* more than *forty,* days after the completion of the *publication of such proposed amendment or amendments, in the same manner as hereinbefore provided in the case of the submission of any proposed amendment or amendments to such charter, proposed and submitted by the council, or other legislative body. The first publication of any proposed amendment or amendments to such charter so proposed by petition shall be made within fifteen days after the aforesaid presentation of said petition to said council, or other legislative body.* In submitting any such charter, amendment or *amendments thereto, any* alternative *article* or *proposition* may be *presented for the choice of* the electors, *and may be* voted on separately *without prejudice to others.*

Every special election held in any city under the provisions of this section, for the election of a board of freeholders, or for the submission of any proposed charter or any amendment or amendments thereto, shall be called by the council, or other legislative body thereof, by ordinance, which shall specify the purpose and time of such election, and shall establish the election precincts and designate the polling places therein, and the names of the election officers for each such precinct. Such ordinance shall, prior to such election, be published five times in a daily newspaper, or twice in a weekly newspaper, if there be no such daily newspaper printed, published and circulated in said city. Such election shall be held and conducted, the returns thereof canvassed, and the result thereof declared by the council, or other legislative body of such city, in the manner that is now or may be hereafter provided by general law for such elections in the particulars wherein such provision is now or may hereafter be made therefor, and in all other respects in the manner provided by law for general municipal elections, in so far as the same may be applicable thereto.

Whenever any board of freeholders shall be elected, or any proposed charter or amendment or amendments thereto shall be submitted at a general municipal election, the laws governing the election of city officers, or the submission of propositions to the vote of electors, shall be followed in so far as the same may be applicable thereto and not inconsistent herewith.

It shall be competent in any charter framed *by any city* under the authority *given in* this section, *or by amendment to such charter,* to provide, *in addition to those provisions allowed by this constitution and by the laws of the state,* for the *establishment of a borough system of government for the whole or any part of the territory of such city, by which one or more districts may be created therein, which* districts *shall be known as* boroughs, and *which shall* exercise such special municipal powers *as may be granted by such charter, and for the organization, regulation, government and jurisdiction of such boroughs.*

All the provisions of this section relating to the city clerk shall, in any city and county, be deemed to relate to the clerk of the legislative body thereof.

CODE Amended Cal. Const. art. XI, section 8.

Full Text

Record: 44

Proposition #	**39**
Title	**SUSPENSION OF PROHIBITION AMENDMENT**
Year/Election	**1914** general
Proposition type	initiative
Popular vote	Yes: 448,648 (66.4%); No: 226,688 (33.6%)
Pass/Fail	Pass
Summary	Initiative amendment adding section 26a to article I of constitution. Provides that if proposed amendment adding sections 26 and 27 to article I of constitution relating to manufacture, sale, gift, use and transportation of intoxicating liquors be adopted, the force and effect of section 26 shall be suspended until February 15, 1915, and that, as to the manufacture and transportation for delivery at points outside of state only, it shall be suspended until January 1, 1916, at which time section 26 shall have full force and effect.

For

ARGUMENT IN FAVOR OF SUSPENSION OF PROHIBITION AMENDMENT.

This amendment seeks to correct an oversight in the drafting of the prohibition amendment, which failed to fix the time when it shall go into effect. The law of the state fixes the time at five days after the declaration of the vote by the secretary of state unless the time is specified in the law. It has been the rule where prohibitory amendments have been proposed to grant those engaged in the liquor traffic a reasonable length of time to get out of the business. The amendments of Washington, Oregon, and Colorado fix the date at January 1, 1916. The present local option law allows ninety days to close out the business.

This amendment was initiated by the same persons who initiated the prohibitory amendment. It has been endorsed by almost all temperance organizations. It hardly needs an argument, as it is reasonable, wise and fair. The liquor traffic has been recognized as a business by our state laws, and if a majority of voters now prohibit the traffic those engaged in it ought to have time to readjust their financial affairs to conform to the law. This provision gives opportunity for laborers employed in the business to secure employment in other lines, or in the business reconstructed for the purpose of making a legitimate use of wine grapes. It also provides time for municipalities whose budgets have been based upon license fees to rearrange their budgets.

The concession is not made because of any legal rights, but in the interest of fair

dealing and to make the loss inherent in a change of state policy as light as possible. It ought to command the support of every voter, whether in favor of prohibition or against it, as it is non-effective unless the prohibitory amendment carries.

The mere statement of the case is all the argument that is needed for this amendment. There is no prohibition in it.

FOR(au) F. M. Larkin

Against **ARGUMENT AGAINST SUSPENSION OF PROHIBITION AMENDMENT.**

The second proposed amendment, extending the time when prohibition is to take effect, simply serves to befog the original issue, which original issue is prohibition with its attendant evil effects on the people at large, among such evils being that it tends to make hypocrites, falsifiers, lawbreakers, cowards, and also destroys self-respect.

Additional thereto, it destroys personal property and greatly lessens the value of real property; all without recompense therefor. It is condemnatory in character, and the rule is that there can be no condemnation without just compensation, which compensation prohibition denies. Such denial seems to verge on fanaticism.

The issue involved is simply one of prohibition with its attendant evils of confiscation and injury to our prosperity, on the one side, and maintenance of honesty, temperance, self-respect, liberty of thought and action and prosperity on the other.

If confiscation is right, why delay it?

Let the intelligent voter read and ponder.

Against(au) C. F. A. Last

Text of Prop. The electors of the State of California present to the secretary of state this petition, and request that a proposed amendment to the Constitution of the State of California, by adding to article I thereof, section 26a, suspending the force and effect of proposed section 26 of article I, if enacted at the general election held November 3, 1914, as hereinafter set forth, be submitted to the people of the State of California for their approval or rejection, at the next ensuing general election, or as provided by law. The proposed amendment is as follows:

The people of the State of California do enact as follows:

Article I of the Constitution of the State of California is hereby amended by adding thereto a new section, to be numbered section 26a, in the following words:

Section 26a. Should an amendment to the Constitution of the State of California by adding to article I two new sections to be numbered respectively section 26 and section 27, as proposed by initiative petition filed with and certified to the secretary of state, and relating to intoxicating liquors, be enacted at the general election held on Nov. 3, 1914, then the force and effect of said section 26 shall be suspended until Feb. 15, 1915, at which time it shall have full force and effect except that, as to the manufacture and transportation of intoxicating liquors for delivery at points outside of the State of California only, the force and effect thereof shall be suspended until Jan. 1, 1916, at which time such manufacture and transportation also shall wholly cease and on and

after said date said section 26 shall in all respects have full force and effect.

CODE Added Cal. Const. art. I, section 26a. Suspended Cal. Const. art. I, section 26.

Case Checked. ().

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Record: 73

Proposition #	**6**
Title	**INELIGIBILITY TO OFFICE**
Year/Election	**1916** general
Proposition type	initiative
Popular vote	Yes: 414,208 (64.3%); No: 230,360 (35.7%)
Pass/Fail	Pass
Summary	Initiative measure amending Section 19 of Article IV of Constitution. Declares that no Senator or Member of Assembly shall, during the term for which he shall have been elected, hold or accept any office, trust, or employment under this State; provided that this provision shall not apply to any office filled by election by the people.

For

ARGUMENTS IN FAVOR OF INELIGIBILITY TO OFFICE AMENDMENT.

It has always been the aim of any republican form of government to remove the legislative branch of the government from the control of the executive branch. It is evident that where a member of the legislature is holding a paid position in the executive department of the state that the separation which should exist between these two branches of the government is at an end. The American theory has always been that those who execute the laws should not be the same individuals as those who make the laws, yet one who is both an assemblyman and a member of the executive department is in just that position. It would not be an edifying spectacle, nor would it make for civic decency, to see such an individual introducing a bill in his legislative capacity which would increase the pay he would receive in his executive capacity.

There is another reason why this measure should pass. We should remember that a legislator who is holding a position on the state pay roll is too apt to allow the wishes of the one responsible for his appointment to dictate the manner in which his vote shall be cast. A man in such a position, is, to say the least, not in that independent frame of mind which should be possessed by the ideal legislator.

There can be no doubt that a vote "Yes" on this measure will tend materially to raise the standard of the California legislature of the future.

While some of our most efficient officials have been men holding appointment under the state, at the same time being members of the legislature, the practice is one which some day may be subjected to abuse. The proposed law to render a member of the legislature ineligible to any office under the state, other than an elective office,

during the term for which he shall have been elected, is therefore in the interest of good government and should be adopted.

Once such a law is written into our statutes, we eliminate the incentive which a legislator may have to favor a law creating a position to which later he may contemplate appointment.

The legislator should have no selfish interest in connection with the enactment of any law or the creation of any office. The proposed law without doubt will very largely eliminate the possible selfish considerations.

Here and there the state, by reason of such a law, will actually suffer, as it frequently happens that the most highly specialized man for work in connection with a certain department of state is a member of the legislature. There are instances of that sort today, where, by the enactment of such a law, the state will lose the services of especially qualified and conscientious officials.

To my mind, however, the advantages from the proposed law wholly outweigh the disadvantages, and the net result of such a law will be beneficial alike to the legislature and to the public.

FOR(au) Richmond P. Benton |t Assemblyman Sixty-sixth District

FOR(au) Dr. John R. Haynes

Against **ARGUMENT AGAINST INELIGIBILITY TO OFFICE AMENDMENT.**

To pass this constitutional amendment is in effect to say that every governor and member of the state legislature is dishonest and without integrity or character, because those who urge its adoption are loud in their cries that it will prevent the governor from bartering for legislative votes by appointing senators and assemblymen who favor administration measures to state offices, and that it will further destroy the incentive for members of the legislature to vote with the governor in the hope of obtaining a state position in reward thereof. It is certainly a sad commentary on the integrity of our governors and legislators by thus stigmatizing executive and legislative service. And even if this amendment should pass, could not the governor, were he so lacking in integrity and unmindful of the obligations of his high office, secure the same legislative votes by appointing relatives or political friends of such servile members of the legislature who would sell their honor and barter the trust reposed in them by their constituents? Its adoption must inevitably fail in the accomlishment[sic] of any purpose except to close other avenues of political service to legislators.

Do you realize that under this amendment a senator or assemblyman could not take a civil service examination for a state position?

In many instances it makes for efficiency to appoint upon commissions members of the legislature who have given careful study to the needs, aims and objects of a commission created or a law enacted.

Another argument advanced by the proponents of this measure is that members of the legislature who are appointed to state offices receive two salaries, but the records will show that leaves of absence are invariably obtained by such appointees during

sessions of the legislature and the actual time of the legislative session is generally about eighty days every two years. Thus the people lose nothing, while the incumbent of a state position who is a member of the state legislature is better fitted through his legislative experience for the discharge of his duties.

The American people love fair play; they like to reward efficient and faithful public service by promotion, yet the adoption of this proposed measure would render every member of the legislature ineligible for promotion to higher positions and graver duties and responsibilities, however efficient and meritorious his services in the legislature may have been.

Against(au) Thos. P. White |t Presiding Judge, Police Court, Los Angeles

Text of Prop. The electors of the State of California present to the secretary of state this petition, and request that a proposed amendment to section nineteen of article four of the Constitution of the State of California, as hereinafter set forth, be submitted to the people of the State of California for their approval or rejection, at the next ensuing general election, or as provided by law. The proposed amendment is as follows:

The people of the State of California do enact as follows:

Section nineteen of article four of the Constitution of the State of California is hereby amended to read as follows:

PROPOSED AMENDMENT.

Section 19. No senator or member of assembly shall, during the term for which he shall have been elected, **hold or accept** any office, **trust, or employment** under this state; provided, that this provision shall not apply to any office filled by election by the people.

Section nineteen of article four, proposed to be amended, now reads as follows:

EXISTING PROVISIONS.

Section 19. No senator or member of assembly shall, during the term for which he shall have been elected, *be appointed to* any *civil* office *of profit* under this state *which shall have been created, or the emoluments of which have been increased, during such term,* except such offices as may be filled by election by the people.

CODE Amended Cal. Const. art. IV, section 19.

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Record: 121

Proposition #	**9**
Title	**HIGHWAY BONDS**
Year/Election	**1920** general
Proposition type	initiative
Popular vote	Yes: 435,492 (58.3%); No: 311,667 (41.7%)
Pass/Fail	Pass

Summary Creates State Highway Finance Board to serve without compensation. Directs cancellation of unsold forty thousand bonds authorized by Section 2 of same article; authorizes other bonds to same amount, to be issued as provided in said section, but at times and interest rate, not exceeding six per cent, determined by said board under then prevailing market conditions; makes provisions of said section otherwise govern said bonds and proceeds thereof. Beginning July 1, 1921, relieves counties from payments to state on account of highway construction.

For **ARGUMENT IN FAVOR OF HIGHWAY BONDS INTEREST INCREASE.**

The state highway bonds are now unsalable as the law will not permit their being sold at less than par. No state bond bearing but four and one-half per cent interest can hope to compete with the United States bonds now purchasable to yield seven per cent, nor with the many excellent industrial bonds which are selling to yield eight per cent or more.

The initiative measure on highway bonds proposes to meet these conditions by the establishment of a finance board composed of the Governor, State Controller, State Treasurer, Chairman of the State Board of Control and the Chairman of the California Highway Commission, which finance board is to have the power to adjust up or down the interest rate on previously unsold state highway bonds, and so as to meet the market fluctuations at times when the money is required for state highway work.

The maximum interest rate which may be so established is six per cent, but it is conceivable that the rate at some future time may be fixed at, or even below, the present four and one-half per cent rate.

Like other commodities, money must be paid for when needed at the going market rate. Its value can not be fixed by state legislation and the proposed plan appears to be well within the scope of sound business.

The finance board will serve in an ex officio capacity from time to time when the

need arises. For such services no compensation is to be paid.

The initiative measure will also relieve the counties, after June 30, 1921, of all interest payments to the state on account of highway construction. It is believed that this is a just provision.

Many poor counties have already had built and will have constructed within their borders, some of the most costly roads undertaken by the State Highway Commission. These counties can not afford to pay the interest on the amounts so expended, as the present law provides.

The state roads are for the use of all, and they are travelled to a great extent by people from other parts of the state, particularly from the populous and wealthy communities, and by thousands of visitors from other states. The use of the state highways by nonresidents far exceeds the local use in most cases.

The secondary roads are being built by the counties without pecuniary assistance from the state and the cost of this work is all that should be expected from the counties. The state should bear its own burden.

Thus it appears that the passage of the initiative measure is of utmost importance at this time. Without it the state highway work can not continue; the state will lose a large sum, estimated to be more than $6,000,000, from the government in the matter of federal aid payments, and that money will be allotted to other states which are able to provide the state's share of the cost of federal aid roads; and finally much damage and loss will accrue to the state highways already built.

FOR(au) M. B. Johnson |t State Senator Eleventh District

Against

ARGUMENT AGAINST HIGHWAY BONDS INTEREST INCREASE.

This measure should be emphatically rejected and defeated.

The foremost intent of the proposed amendment is to authorize an increase in the interest rate on about $37,000,000 worth of unsold bonds of the third highway issue, from 4 1/2 per cent to a maximum of 6 per cent.

Based on probable sale of $10,000,000 in bonds annually for four years, this proposal means an increase, in interest alone, from $36,000,000 to $48,000,000, which, added to the principal, makes a total cost of $85,000,000. That is a huge price to pay for the use of $37,000,000!

Competent estimates show that for this $85,000,000 (principal and interest) we will get only about $25,000,000 worth of highways! This is not a loose statement. From the $37,000,000 principal, deduct 12 per cent, or about $4,500,000 for Highway Commission "overhead." The remaining $32,500,000 will build only about $25,000,000 worth of highways (many believe not over $20,000,000), as compared with normal construction costs.

Considering the enormous amount of money involved, together with the admitted fact that state highways already constructed are fast crumbling under the strain of

traffic, this proposal represents reckless financing and unjustified extravagance. With these roads worn out and gone in half the time, our children's children, over forty years from now, will still be paying the price of our financial shortsightedness.

If the state boosts bond interest rates, our counties and cities will have to do likewise, at heavy cost, with added taxes. Our schools will find it harder and costlier to sell bonds, meaning still more burdens for taxpayers and fewer school facilities for the children.

The proposal to shift the payment of highway bond interest from the counties to the state is alluring, but dangerous and deceptive.

The State Controller and other state officers have repeatedly warned the people that the state's finances face a crisis. It is proposed, however, at this election, to add $5,000,000 annually of state money to teachers' salaries. The next legislature will be asked for many other millions in addition to present expenses, for orphans' aid, state institutions, public works, etc. The state's taxing resources are strained.

Therefore, if the state has to assume the highway interest burden, it will almost certainly be compelled (it came near to doing so in 1919) to levy a direct ad valorem tax and thus shift this burden, probably with others, back on to county and city taxpayers. In addition, it will undoubtedly increase automobile license fees and keep all the revenue derived therefrom, instead of giving half of it back to the counties, as at present.

If the ad valorem tax is levied it will apply to all counties alike. Counties which have little or none of the state highway will therefore suffer a serious injustice.

The cry that some counties suffer from the amounts of highway interest charged against them should be explained by the Highway Commission, which, under the present law, can relieve any county of any portion of highway interest which is unduly burdensome, unjust or inequitable.

Against(au) Will H. Fischer |t Director, Taxpayers' Association of California

Text of Prop. Sufficient qualified electors of the State of California present to the secretary of state this petition and request that there be submitted to the electors of the state for their approval or rejection, at the next general election, an amendment to the constitution of the State of California adding a new section three to article sixteen of said constitution, the full text of said proposed amendment being as follows:

The people of the State of California do enact as follows:

A new section to be known as section three is hereby added to article sixteen of the constitution, to read as follows:

PROPOSED AMENDMENT.

(Proposed changes in provisions are printed in black- faced[BOLD] type.)

Section 3. There is hereby created a state highway finance board composed of the governor, state controller, state treasurer, chairman of the state board of

control and chairman of the California highway commission, all of whom shall serve thereon without compensation and a majority of whom shall be empowered to act for said board. All of the forty thousand bonds authorized by section two of article sixteen of this constitution which shall have heretofore been sold shall be and constitute valid obligations of this state. All of said forty thousand bonds which shall remain unsold at the time of the adoption of this section shall be cancelled and destroyed by the state treasurer, and in lieu thereof bonds in the same amount shall be prepared and sold as hereinafter stated. Said state highway finance board shall from time to time, so long as the bonds herein authorized remain unsold, determine when the same or any part thereof shall be sold, the number to be sold, the dates which the bonds so to be sold shall bear, and the interest rate thereon, which rate shall be fixed by said board according to the then prevailing market conditions but shall at no time exceed six per cent per annum, and the determination of said board as to the rate of interest shall be conclusive as to the then prevailing market conditions. When requested by said board the state treasurer shall prepare such number of bonds, so dated and bearing such interest rate thereon, all as so determined by said board, said bonds as to maturity dates thereof, form, place and method of payment of principal and interest thereon, and in all other particulars, being the same as authorized by said section two of article sixteen, and as though the bonds herein authorized were the balance of said forty thousand bonds remaining unsold, and when so prepared said bonds shall be signed, countersigned, endorsed, sealed, sold and delivered, all as provided with respect to the bonds authorized by said section two of article sixteen, but by the respective officers in office at the time such acts are required to be done. In the event that any bonds prepared as herein provided cannot in the judgment of said state highway finance board be sold at the time fixed for the sale thereof or thereafter, said board may withdraw said bonds from sale and direct the state treasurer to cancel and destroy the same, and may at said time or thereafter, at its option, direct the preparation and sale as hereinbefore provided, of the same or a different number of bonds, but not to exceed in all the amount herein authorized, and at the same or a different rate of interest but not to exceed six per cent per annum. All of the provisions of said section two of article sixteen, except those relating to the number of the bonds therein authorized, the date thereof and interest rate thereon, and except as herein otherwise provided, shall apply to and govern the bonds herein authorized, the use of the proceeds therefrom, and the several funds to be created and payments to be made into and out of the same, and in all respects said bonds herein authorized and the moneys derived from the sale thereof shall be governed and dealt with in the same manner, except as herein otherwise provided, as though the bonds herein authorized were the unsold portion of the forty thousand bonds authorized by said section two of article sixteen.

Section eight of the "state highways act" of 1909 as amended and approved by the electors November 7, 1916, section eight of the "state highways act" of 1915, section two of article sixteen of the constitution, and this section, to the extent that the provisions of any of said sections require the payment into the state treasury by the several counties of sums of money equal to the interest upon any money issued under said acts and constitutional provisions respectively within those counties in the construction of state highways, shall on and after July 1, 1921, have no further force or effect; it being the intent of this provision that on and after said date the interest upon all bonds issued by the state for highway construction shall be paid exclusively by the state and that the counties shall thereafter be relieved from any obligation now or heretofore

imposed to pay into the state treasury any money by reason of any expenditures for previous or subsequent highway construction in said counties; but nothing in this section contained shall be construed to exempt or relieve any county from the payment into the state treasury of any money due from it prior to said date under any of said provisions of any of said sections.

All provisions of this section shall be self-executing and shall not require any legislative action in furtherance thereof, but this shall not prevent such legislative action; and all expenses that shall be incurred by the state treasurer in the preparation of bonds herein provided for and in the advertising and sale thereof and all expenses incurred by any officer in reference thereto shall be paid from the general fund of the state. Nothing in this constitution contained, except as in this section provided, shall be a limitation upon the provisions of this section.

EXISTING PROVISIONS.

Section two of article sixteen, to which reference is made and which section will be affected by the proposed new section three, reads as follows:

(Provisions proposed to be repealed are printed in italics.)

Section 2. Immediately upon the adoption of this section the state treasurer shall prepare forty thousand suitable bonds of the State of California in the denomination of one thousand dollars each, to be numbered from one to forty thousand inclusive, to bear a date *not later than thirty days after said adoption* and to bear interest at the rate of *four and one-half* per cent per annum from the date of said bonds, said interest to be payable on the third day of January and the third day of July of each and every year after the sale of said bonds to become due and payable in annual parcels of one thousand bonds, commencing July 3, 1926, and ending July 3, 1965.

The provisions of the act of the legislature approved May 20, 1915, known as the "state highways act of 1915," relative to the signing, countersigning, endorsing and sealing of the bonds therein provided for and the interest coupons thereon, the place and method of payment of principal and interest thereon, the procedure for initiating, advertising and holding sales thereof, and the performance by the several state boards and officers of their respective duties in connection therewith as therein stated, and all other provisions, terms and conditions in said last-named act relating to the bonds therein mentioned, so far as the same shall be pertinent, shall be applicable to the preparation, issuance and sale of the bonds herein provided for, as herein contemplated.

Funds corresponding to those provided for in said act are hereby created, and payments into and out of the same shall be made as in said act provided, said funds to be designated respectively, "third state highway fund," "third state highway interest and sinking fund," "third state highway revolving fund," and "third state highway sinking fund"; and the state treasurer shall on the first day of January, 1920, and on the first day of each July and the first day of each January thereafter transfer from the general fund to the "third state highway interest and sinking fund," and on the first day of July, 1926, and on the first day of July of each year thereafter, from the general fund to the "third state highway sinking fund," the required moneys as provided in section five of said act for the purposes therein stated but as applicable only to the bonds herein provided for

and the interest thereon.

The moneys in said "third state highway fund" shall be used by the state department of engineering for the acquisition of rights of way for and the acquisition, construction and improvement of uncompleted portions of the system of state highways prescribed by the act of the legislature approved May 22, 1909, known as the "state highways act," and the act of the legislature approved May 20, 1915, and known as the "state highways act of 1915," and certain extensions thereof described in said last-named act, and also for the acquisition of the rights of way for and the acquisition, construction and improvement of the following additional highways as state highways: Barstow to Needles; Oxnard to San Juan Capistrano; Barstow to Mojave; Santa Maria to Bakersfield; Skyline boulevard San Francisco to Santa Cruz; Rio Vista to Fairfield; Auburn to Verdi; Ukiah to Tahoe City; Crescent City to Oregon line; Santa Rosa to Shellville; Big Pine to Oasis; Placerville to Sportsman's Hall; Feather river route Oroville to Quincy; General Grant National Park to Kings river canyon; Calistoga to Lower Lake; Azusa to Pine Flats in San Gabriel canyon; La Canada via Arroyo Seco to Mount Wilson road; Lancaster to Bailey's; Bakersfield via Walker's pass to Freeman; McDonald's to the mouth of the Navarro river; Carmel to San Simeon; Klamath river state highway bridge to coast state highway; Susanville to Nevada state line; Pacheco pass road into Hollister; Visalia to Sequoia Park line; Deep creek easterly via Bear Valley dam to the county road at Metcalf creek in the Angeles national forest; Orland to Chico; Tiburon to Alto; and county line near Michigan Bar via Huot's ranch to Drytown. Said additional highways to be located on the most direct and practical routes; provided, however, that twenty million dollars of the moneys in said "third state highway fund," or so much of said twenty million dollars as shall be necessary, shall be used for the completion of all of the system of state highways contemplated and provided for in said "state highways act" and in said "state highways act of 1915," and the extensions thereof specified in said last-named act.

The cost of acquisition and construction of the several extensions described in said "state highways act of 1915" shall hereafter be entirely borne by the State of California, it being the intention hereof to relieve the several counties from any further co-operation as contemplated by said "state highways act of 1915," but nothing herein shall prevent any county from contributing towards the cost of said extensions or of any other state highways at its option to such extent as it may desire under the provisions of any existing laws.

All provisions of section eight of said "state highways act of 1915," and of any amendment thereof, and any provisions of said act or of any amendment thereof, relating to the selection of routes, character of construction of highways, manner of conducting work thereon, powers and duties of officers in connection therewith, adoption of public highways as state highways, payment of principal and interest on any bonds and appropriation of money for payment thereof, and the keeping of records and making of statements and reports, *and all provisions of section eight of the "state highways act," as amended May 19, 1915, and of section eight of the "state highways act of 1915," and of any amendment of either thereof, relating to the payment by counties of money for interest upon any bonds and the relief of counties from such payment, shall, so far as applicable, apply to the bonds herein authorized and all highways constructed hereunder.*

All provisions of this section shall be self-executing and shall not require any legislative action in furtherance thereof, but this shall not prevent such legislative action; and all expenses that shall be incurred by the state treasurer in the preparation of bonds herein provided for and in the advertising and sale thereof and all expenses incurred by any officer in reference thereto shall be paid from the general fund of the state. Nothing in this constitution contained shall be a limitation upon the provisions of this section.

Section eight of the state highways act of 1909, as amended by chapter 414, Statutes of 1915, to which reference is made, and which section will be affected by the proposed highways bonds constitutional amendment, reads as follows:

(Provisions proposed to be repealed are printed in italics.)

Section 8. The highway constructed or acquired under the provisions of this act shall be permanent in character and be finished with oil or macadam or a combination of both, or of such other material as in the judgment of the said department of engineering shall be most suitable and best adapted to the particular locality traversed. The state department of engineering, in the name of the people of the State of California, may purchase, receive by donation or dedication, or lease any right of way, rock quarry or land necessary or proper for the construction, use or maintenance of said state highway and shall proceed, if necessary, to condemn under the provisions of the Code of Civil Procedure relating to such proceedings any necessary or proper right of way, rock quarry or land. The department of engineering shall have full power and authority to purchase all supplies, material, machinery and to do all other things necessary or proper in the construction and maintenance of said state highway. With the exception of those public highways which have been permanently improved under county or permanent road division bond issues within three years prior to the adoption of this act, all public highways within this state lying within the right of way of said state highway as determined and adopted by the department of engineering shall be and the same shall become a part of the right of way of said state highway, without compensation being paid therefor; provided, nothing herein contained shall require the state to maintain any highway along or on said right of way, prior to the completion or acquisition of the permanent improvements contemplated by this act. *Whenever any money received from the sale of bonds, under the provisions of this act, shall be expended in any county in this state, such county must pay into the state treasury such sum each year as shall equal the interest, at the rate of four per cent per annum, upon the entire sum of money expended within such county in the construction of said state highway, less such portion of said amount expended as the bonds matured under the provisions of this act, shall bear to the total number of bonds sold and outstanding; provided, however, that in all cases where, by reason of physical difficulties to be overcome, or other good and sufficient cause, the state department of engineering shall determine that the cost of construction of any portion of such state highway in any county, or counties, is so great as to entail an unjust and inequitable burden upon any such county, or counties, in refunding to the state the sums so paid for interest upon the bonds sold and the proceeds thereof applied as aforesaid, such county, or counties, shall not be required to refund the whole amount of such interest, but only such proportion thereof as the state department of engineering shall adjudge to be fair and reasonable.* All highways constructed or acquired under the provisions of this act shall be permanently maintained and controlled by the State of California.

Section eight of the state highways act of 1915, to which reference is made, and which section will be affected by the proposed highways bonds constitutional amendment, reads as follows:

(Provisions proposed to be repealed are printed in italics.)

Section 8. The highway constructed or acquired under the provisions of this act shall be permanent in character and be finished with oil or macadam or a combination of both, or of such other material as in the judgment of the said department of engineering shall be the most suitable and best adapted to the particular locality traversed. The state department of engineering, in the name of the people of the State of California, may purchase, or receive by donation or dedication from counties, or from public or private persons, or it may lease, any right of way, rock quarry or land necessary or proper for the construction, use, improvement or maintenance of said state highway and shall proceed, if necessary, to condemn under the provisions of the Code of Civil Procedure relating to such proceedings any necessary or proper right of way, rock quarry or land. The department of engineering in accordance with law shall have power and authority to purchase, sell, exchange, lease or otherwise acquire or dispose of all supplies, stock, material, machinery and implements and do all other things necessary or proper in the construction, improvement or maintenance of said state highway. The department of engineering in accordance with law shall have power and authority to purchase, lease, or erect plants for manufacture of cement, crushed rock and other materials used in road or highway work, and also the power to dispose of said plants when no longer required for such purposes. With the exception of those public highways which have been permanently improved under county or permanent road division bond issues within nine years prior to the adoption of this act, all public highways within this state lying within the right of way of said state highway as determined and adopted by the department of engineering shall be and the same shall become a part of the right of way of said state highway, without compensation being paid therefor; provided, nothing herein contained shall require the state to maintain any highway along or on said right of way, prior to the completion or acquisition of the permanent improvements contemplated by this act. *Whenever any money received from the sale of bonds, under the provisions of this act, shall be expended in any county in this state, such sum each year as shall equal the interest, at the rate of four and one-half per cent per annum, upon the entire sum of money expended from the proceeds of the bonds issued under this act within such county in the construction of said state highway, less such portion of said amount expended as the bonds matured under the provisions of this act shall bear to the total number of bonds sold and outstanding; provided, however, that in all cases where, by reason of physical difficulties to be overcome, or other good and sufficient cause, the state department of engineering shall determine that the cost of construction of any portion of such state highway in any county, or counties, is so great as to entail an unjust and inequitable burden upon any such county, or counties, in refunding to the state the sums so paid for interest upon the bonds sold and the proceeds thereof applied as aforesaid, such county, or counties, shall not be required to refund the whole amount of such interest, but only such proportion thereof as the state department of engineering shall adjudge to be fair and reasonable.* All highways constructed or acquired under the provisions of this act shall be permanently maintained and controlled by the State of California.

CODE Added Cal. Const. art. XVI, section 3. Repealed portions of Cal. Const. art. XVI, section 2. Repealed portions of section 8 of "State Highways Act of 1909", as amended

by Ch. 414, Statutes of 1915.

Full Text

Record: 109

Proposition #	**16**
Title	**SCHOOL SYSTEM**
Year/Election	**1920** general
Proposition type	initiative
Popular vote	Yes: 506,008 (65.3%); No: 268,781 (34.7%)
Pass/Fail	Pass
Summary	Adds kindergartens to public school system; requires addition to state school fund, and creation of state high school fund, from state revenues to provide elementary, secondary, and technical schools, respectively, with minimum of thirty dollars per pupil; requires county tax levies producing for elementary schools amount not less than state apportionment, and for secondary and technical schools amount, at least twice state apportionment; requires school district tax levies for school purposes; applies state apportionment, and at least sixty per cent of county school taxes, to teachers' salaries exclusively.

For

ARGUMENT IN FAVOR OF SCHOOL SYSTEM CONSTITUTIONAL AMENDMENT.

This constitutional amendment was framed to provide more definite and adequate support for public schools. It will increase the state's contribution for support of elementary and high schools about $270 yearly for each teacher employed. The average yearly salary for elementary teachers is about $1,000. This amendment will raise this average to about $1,270. This is not too much to pay teachers who hold in their hands the destiny of America.

A salary is worth only what it will buy. The amendment will not really increase teachers' salaries, but will merely restore a fraction of the purchasing power of teachers' salaries taken away by the war. It will restore about 27 per cent whereas the cost of living has increased 100 per cent.

The chief beneficiaries of this amendment will be the children and State of California. Men and women need not teach. Business and industry have proved this by taking teachers away from the schools. In August, 1920, there were over 600 schools in California without teachers, mostly in country districts where yearly salaries range from $600 to $1,000.

American parents will not make their homes where schools are unsatisfactory. They will move away. If their places on farms are not taken, production is decreased

and city dwellers must pay more for food. If their places are taken by Japanese and other Orientals, Californians will be sacrificing their birthright. This amendment will help secure good country schools to hold Americans on farms.

The amendment restores the old principle, that the state and the county should be equal partners in supporting elementary schools. Up to 1911, the state paid more toward salaries and other expenses of elementary schools than the county. Before 1908, it paid more than county and districts combined. In 1911, the state contributed $533 per teacher; in 1918, it contributed $421, a decrease of $112; in 1911, the county contributed $433 per teacher; in 1918, it contributed $439, an increase of $6. In 1911, the district contributed only $311 per teacher; in 1918, it contributed $602, an increase of $291.

The state has been shifting its school burdens to counties and school districts. A small increase of state support by the last Legislature did not restore the balance. This amendment will restore the principle of equal support and guarantee it by constitutional provision. It increases state aid for high schools from $15 to $30 per pupil. The county contribution for high schools is not increased.

"Why not let districts take care of the schools?" Hundreds of districts are too poor. In rural counties the total assessment of many school districts is about $20,000 each. If the maximum district rate for elementary schools were levied, only $60 a year would be raised! This is pitifully insufficient. This amendment is their chief hope for relief.

A vote for this amendment will uphold the principle that money for schools shall be raised where income is, and distributed where children are.

FOR(au) Will C. Wood |t Superintendent Public Instruction

Against **ARGUMENT AGAINST SCHOOL SYSTEM CONSTITUTIONAL AMENDMENT.**

All good Americans are friends of the schools, and favor adequate pay for efficient teaching. Salaries are fixed by school boards. The question here is purely ways and means.

The purpose of a constitution in to embody the organic law of the state and lay down fundamental rules and principles for the conduct of its affairs. Details belong in the statutes.

If this new tax scheme is voted into the constitution, not a word of it can ever be changed except by vote of the people at some future election, after some one with a barrel of money gets up a huge petition of about 80,000 signatures (at present) to get it on the ballot. On the ranches we call such a situation "roped and hog tied."

This whole amendment is detail, already sanctioned by the constitution and for many years provided for in the statutes.

It increases the state aid for elementary schools from $17.50 to $30 per pupil in average daily attendance. The present legislature raised it to $17.50 from $15. The original bill said $21, but the official advisers insisted that an increase of more than $2.50 per pupil was impossible for lack of money.

The present legislature also increased the minimum county elementary tax from $13 to $21 per pupil. This amendment raises it from $21 to $30. Supervisors now have discretionary power to raise this tax to the legal limit of 50 cents per $100. The proposed amendment does not provide any limit. But it does carefully provide for continuing the district special tax.

The amendment increases state aid for high schools from $15 to $30 per pupil, leaving the county high school tax at $60 for the minimum.

The state aid to counties, fiscal year 1917-18, was $6,854,346. When this amendment can go into effect, if carried, that amount will be around $8,000,000, owing to natural increase in attendance and to new attendance laws. This proposed amendment virtually doubles that sum to approximately $16,000,000.

Where is that extra $8,000,000, increasing every year, to come from? There is only one known source. That is a state tax on all property. The state will force the money out of the people as a new tax, and distribute it among the counties as a gift.

One can charitably believe that the school heads who concocted this scheme and the teachers who are assessed for propaganda expenses, never got to the bottom of it.

The State Controller says the state and counties expended $46,000,000 last year, for educational purposes. When such an enormous sum does not supply sufficient salary for the real teacher who is the heart of her school, "something, is rotten in the state of Denmark."

Here is a little pointer from the last biennial report of the State Board of Education, page 116, the Commissioner of Elementary Schools speaking: She says, "We are teaching much in the elementary schools that does not tend toward either efficiency or spirituality, in fact that does not lead anywhere."

Against(au) W. A. Doran |t Assemblyman, Eightieth District

Text of Prop. Sufficient qualified electors of the State of California present to the secretary of state this petition and propose to the people of the State of California that section six of article nine of the constitution of the State of California, relating to the public school system, the state school fund, and the state high school fund, and the use of those funds, be amended so as to read as follows:

PROPOSED AMENDMENT.

(Proposed changes in provisions are printed in black- faced[BOLD] type.)

Section 6. The public school system shall include day and evening elementary schools, and such day and evening secondary schools, technical schools, **kindergarten schools** and normal schools or **teachers' colleges**, as may be established by the legislature, or by municipal or district authority.

The legislature shall add to the state school fund such other means from the revenues of the state as shall provide in said fund for distribution in each school

year in such manner as the legislature shall provide an amount not less than thirty dollars per pupil in average daily attendance in the day and evening elementary schools in the public school system during the next preceding school year.

The legislature shall provide a state high school fund from the revenues of the state for the support of day and evening secondary and technical schools, which for each school year, shall provide for distribution in such manner as the legislature shall provide an amount not less than thirty dollars per pupil in average daily attendance in the day and evening secondary and technical schools in the public school system during the next preceding school year.

The legislature shall provide for the levying of a county, and city and county, elementary school tax, by the board of supervisors of each county, and city and county, sufficient in amount to produce a sum of money not less than the amount of money to be received during the current school year from the state for the support of the public day and evening elementary schools of the county, or city and county; provided that said elementary school tax levied by any board of supervisors shall produce not less than thirty dollars per pupil in average daily attendance in the public day and evening elementary schools of the county, or city and county, during the next preceding school year.

The legislature shall provide for the levying of a county, and city and county, high school tax by the board of supervisors of each county, and city and county sufficient in amount to produce a sum of money not less than twice the amount of money to be received during the current school year from the state for the support of the public day and evening secondary and technical schools of the county, or city and county; provided that the high school tax levied by the board of supervisors shall produce not less than sixty dollars per pupil in average daily attendance in the public day and evening secondary schools of the county, or city and county, during the next preceding school year.

The legislature shall provide for the levying of school district taxes by the board of supervisors of each county, and city and county, for the support of public elementary schools, secondary schools, technical schools, and kindergarten schools, or for any other public school purpose authorized by the legislature.

The entire amount of money provided by the state, and not less than sixty per cent of the amount of money provided by county, or city and county, school taxes shall be applied exclusively to the payment of public school teachers' salaries.

The revenues provided for the public school system for the school year ending June 30, 1921, shall not be affected by this amendment except as the legislature may provide.

EXISTING PROVISIONS.

Section six, article nine, proposed to be amended, now reads as follows:

(Provisions proposed to be changed are printed in italics.)

Section 6. The public school system shall include day and evening secondary schools, and such day and evening secondary schools, normal schools, and technical schools as may be established by the legislature, or by municipal or district attorney. The entire revenue derived from the state school fund *[and from the *general state* school tax] shall be applied exclusively to the *support* of day and evening elementary schools; *[but the legislature may authorize and cause to be levied a special *state* school tax for the *support* of day and evening secondary schools and technical schools, or either of such schools, included in the public school system, and all revenue derived from such special tax shall be applied exclusively to the *support* of the schools for which such special tax shall be levied.]

*NOTE.-Provisions enclosed in brackets were by implication superseded by those of section fourteen, article thirteen, adopted November 8, 1910, which section provides for a system of taxation for state purposes. As above section six was, however, not specifically referred to or repealed by said section fourteen, section six is reprinted as it stands with type indicating changes which will specifically be brought about by the proposed new section six.

In section six reference is made to the state school fund. Section four of article nine, which provides for said fund, reads as follows:

Section 4. The proceeds of all lands that have been or may be granted by the United States to this state for the support of common schools, which may be, or may have been, sold or disposed of, and to the five hundred thousand acres of land granted to the new states under an act of congress distributing the proceeds of the public lands among the several states of the union, approved A. D. one thousand eight hundred and forty- one, and all estates of deceased persons who may have died without leaving a will or heir, and also such per cent as may be granted, or may have been granted, by congress on the sale of lands in this state, shall be and remain a perpetual fund, the interest of which, together with all the rents of the unsold lands, and such other means as the legislature may provide, shall be inviolably appropriated to the support of common schools throughout the state.

In subdivision (e) of said section fourteen, article thirteen, provision is made for additional moneys for school purposes, as follows:

(e) Out of the revenues from the taxes provided for in this section, together with all other state revenues, there shall be first set apart the moneys to be applied by the state to the support of the public school system and the state university . In the event that the above named revenues are at any time deemed insufficient to meet the annual expenditures of the state, including the above named expenditures for educational purposes, there may be levied, in the manner to be provided by law, a tax, for state purposes, on all the property in the state, including the classes of property enumerated in this section, sufficient to meet the deficiency. All property enumerated in subdivisions a, b, and d of this section shall be subject to taxation, in the manner provided by law, to pay the principal and interest of any bonded indebtedness created and outstanding by any city, city and county, county, town, township or district, before the adoption of this section. The taxes so paid for principal and interest on such bonded indebtedness shall be deducted from the total amount paid in taxes for state purposes.

CODE Amended Cal. Const. art. IX, section 6.

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Full Text

Record: 122

Proposition #	**1**
Title	**VETERANS' VALIDATING ACT**
Year/Election	**1922** general
Proposition type	initiative
Popular vote	Yes: 562,022 (71.3%); No: 226,567 (28.7%)
Pass/Fail	Pass
Summary	Initiative measure adding proviso to Section 31, Article IV of Constitution. Permits state aid with money or credit to United States Army or Navy Veterans, who served during war time, in acquiring or developing farms or homes or in land settlement projects; validates, irrespective of vote thereon at November, 1922, election, "California Veterans' Welfare Bond Act" as enacted by 1921 legislature, authorizing ten million dollars state bonds to effectuate "California Veterans' Welfare Act," providing land settlement, and "Veterans' Farm and Home Purchase Act," providing farm and home aid, for veterans; declares section self-executing.

For

ARGUMENT IN FAVOR OF THE VETERANS' VALIDATING ACT.

This proposed amendment to the constitution of the state has for its purpose the ratification and validation of the veterans' welfare legislation adopted by unanimous vote of the legislature of the State of California at its 1921 session, consisting of the Veterans' Welfare Act and the Veterans' Farm and Home Purchase Act.

The object of this welfare legislation is to provide veterans of the wars in which the United States has participated with opportunities of acquiring farms and homes on long time payments at a low rate of interest. The administration of this legislation will not increase the tax burdens of the state, and funds expended in the administration thereof are to be repaid with interest to the state by the beneficiaries. The rate of interest, however, is so low and the time in which repayment may be made is so long, that the practical effect is to place the acquisition of a farm or home within the reach of every veteran.

Disabled veterans are given preference.

The plan is this: Under the Veterans' Farm and Home Purchase Act, when a veteran desires to purchase a home or farm of moderate value, he may make his own selection, and if he proves himself to be of good character and worthy, the state will purchase the property selected, provided a conservative appraisement shows it to be of a value equal to the price asked by the seller. The property will then be resold to the

veteran upon his making a small initial payment and payments from time to time, until the entire purchase price is paid. The title to the property will remain in the state as security until the purchase price has been paid in full.

Under the Land Settlement Act the state may purchase large tracts of farm land, subdivide them and resell the allotments to veterans on similar terms, and with the same security.

The Veterans' Welfare Bond Act, Proposition No. 3 on the ballot, authorizes the issuance of bonds in the sum of $10,000,000 for the purpose of carrying out the provisions of the California veterans' welfare legislation which has been described above. The adoption of the proposed constitutional amendment herein discussed will, of itself, authorize the issuance of these bonds.

The Supreme Court of the State of California, by decisions rendered since the passage of the veterans' welfare legislation, has cast some doubt upon the constitutionality of certain of its provisions. This proposition is submitted to the people of the state to secure from them the validation of this legislation and to overcome the constitutional difficulties indicated by the court, making possible the carrying out of this undertaking, which would otherwise through legal technicalities in large measure fail, with the result that there would be withheld from the veterans the aid which the people of California, through the unanimous vote of their representatives in the legislature, have sought to provide.

Vote "Yes."

FOR(au) Hunter Liggett |t Major General, U. S. A., retired

Text of Prop. (Proviso added to Article IV, Section 31.)

Sufficient qualified electors of the State of California present to the secretary of state this petition and request that a proposed measure, as hereinafter set forth, be submitted to the people of the State of California for their approval or rejection, at the next ensuing general election. The proposed measure is as follows:

PROPOSED AMENDMENT.

(Proposed changes in provisions are printed in black- faced[BOLD] type.)

Provided further, that nothing contained in this constitution shall prohibit the use of state money or credit, in aiding veterans who served in the military or naval service of the United States during time of war, in the acquisition of, or payments for, farms or homes, or in projects of land settlement or in the development of such farms or homes or land settlement projects for the benefit of such veterans.

The California veterans' welfare bond act of 1921 (statutes of 1921, chapter 578), as enacted at the forty-fourth session of the legislature of the State of California, authorizing the issuance and sale of state bonds in the sum of ten million dollars, for the purpose of creating a fund to carry out the provisions of the California veterans' welfare act, providing land settlement for veterans (statutes of 1921, chapter 580), and the provisions of the "veterans' farm and home purchase act," providing farm and home aid for veterans (statutes of 1921, chapter 519), is hereby approved, adopted, legalized,

validated and made fully and completely effective irrespective of the vote that may be cast upon the proposition of approving or disapproving such veterans' welfare bond act of 1921 at the general election of November 7, 1922. All provisions of this section shall be self-executing and shall not require any legislative action in furtherance thereof, but this shall not prevent such legislative action.

Section thirty-one, article four, as proposed to be amended, reads as follows:

(Proposed changes in provisions are printed in black- faced[BOLD] type.)

Sec. 31. The legislature shall have no power to give or to lend, or to authorize the giving or lending, of the credit of the state, or of any county, city and county, city, township, or other political corporation or subdivision of the state now existing, or that may be hereafter established, in aid of or to any person, association, or corporation, whether municipal or otherwise, or to pledge the credit thereof, in any manner whatever, for the payment of the liabilities of any individual, association, municipal or other corporation whatever; nor shall it have power to make any gift, or authorize the making of any gift, of any public money or thing of value to any individual, municipal or other corporation whatever; provided, that nothing in this section (shall prevent the legislature granting aid pursuant to section twenty-two of this article; and it shall not have power to authorize the state or any political subdivision thereof, to subscribe for stock, or to become a stockholder in any corporation) shall prevent the legislature granting aid pursuant to section twenty-two of this article; and it shall not have power to authorize the state, or any political subdivision thereof, to subscribe for stock, or to become a stockholder in any corporation whatever; provided, further, that irrigation districts for the purpose of acquiring the control of any entire international water system necessary for its use and purposes, a part of which is situated in the United States, and a part thereof in a foreign country, may in the manner authorized by law, acquire the stock of any foreign corporation which is the owner of, or which holds the title to the part of such system situated in a foreign country.

Provided further, that nothing contained in this constitution shall prohibit the use of state money or credit, in aiding veterans who served in the military or naval service of the United States during time of war, in the acquisition of, or payments for, farms or homes, or in projects of land settlement or in the development of such farms or homes or land settlement projects for the benefit of such veterans.

The California veterans' welfare bond act of 1921 (statutes of 1921, chapter 578), as enacted at the forty-fourth session of the legislature of the State of California, authorizing the issuance and sale of state bonds in the sum of ten million dollars, for the purpose of creating a fund to carry out the provisions of the California veterans' welfare act, providing land settlement for veterans (statutes of 1921, chapter 580), and the provisions of the "veterans' farm and home purchase act," providing farm and home aid for veterans (statutes of 1921, chapter 519), is hereby approved, adopted, legalized, validated and made fully and completely effective irrespective of the vote that may be cast upon the proposition of approving or disapproving such veterans' welfare bond act of 1921 at the general election of November 7, 1922. All provisions of this section shall be self-executing and shall not require any legislative action in furtherance thereof, but this shall not prevent such legislative action.

EXISTING PROVISIONS.

Section thirty-one, article four, proposed to be amended, now reads as follows:

Sec. 31. The legislature shall have no power to give or to lend, or to authorize the giving or lending, of the credit of the state, or of any county, city and county, city, township, or other political corporation or subdivision of the state now existing, or that may be hereafter established, in aid of or to any person, association, or corporation, whether municipal or otherwise, or to pledge the credit thereof, in any manner whatever, for the payment of the liabilities of any individual, association, municipal or other corporation whatever; nor shall it have power to make any gift, or authorize the making of any gift, of any public money or thing of value to any individual, municipal or other corporation whatever; provided, that nothing in this section (shall prevent the legislature granting aid pursuant to section twenty-two of this article; and it shall not have power to authorize the state or any political subdivision thereof, to subscribe for stock, or to become a stockholder in any corporation) shall prevent the legislature granting aid pursuant to section twenty-two of this article; and it shall not have power to authorize the state, or any political subdivision thereof, to subscribe for stock, or to become a stockholder in any corporation whatever; provided, further, that irrigation districts for the purpose of acquiring the control of any entire international water system necessary for its use and purposes, a part of which is situated in the United States, and a part thereof in a foreign country, may in the manner authorized by law, acquire the stock of any foreign corporation which is the owner of, or which holds the title to the part of such system situated in a foreign country.

The California Veterans' Welfare Bond Act of 1921 (Chapter 578, Statutes 1921) validated by the proposed amendment appears in this pamphlet as proposition Number 3, beginning on page ten.

The California Veterans' Welfare Act (Chapter 580, Statutes 1921), validated by the proposed amendment reads as follows:

Section 1. This act may be known and cited as the California veterans' welfare act.

Sec. 2. As used in this act the term "veteran" includes any individual who has served on active duty in the army, navy or marine corps, of the United States in time of war and has received an honorable discharge therefrom or who has been released from active duty under honorable conditions and who was, at the time of his enlistment, induction, commission or drafting, a bona fide resident of the State of California, but does not includeþ

1. Any individual at any time after April 5, 1917 and before November 12, 1918 or thereafter separated from such forces under other than honorable conditions;

2. Any conscientious objector who performed no military duty whatever or refused to wear the uniform, or

3. Any alien at any time during such period or thereafter discharged from the military or naval forces on account of his alienage.

The object of this act is to provide useful employment and the opportunity to acquire farm homes with profitable livelihood on the land for veterans and to provide for cooperation of the state with the agencies of the United States engaged in work of a similar character.

Sec. 3. For the purposes of this act the "veterans' welfare board" is hereby created. This board shall consist of five members to be appointed by the governor to hold office for a term of four years and until their successors have been appointed and shall qualify. Four of such members shall be veterans. Of the members first appointed one shall be appointed to hold office until the first day of January 1922, one until the first day of January 1923, one until the first day of January 1924 and two until the first day of January 1925. The governor shall designate one of the veteran members as chairman of the board and director of veterans' welfare. The secretary may or may not be a member of the board.

Such expert, technical and clerical assistance as may prove necessary may also be selected by the board. The board shall fix the salaries of all employees with the approval of the state board of control. Four members of the board shall receive a per diem for each meeting attended and the chairman shall receive a salary, said per diem and salary to be fixed by the state board of control, with the approval of the governor. The members shall also receive their actual necessary traveling expenses in the discharge of their duties. The said veterans' welfare board shall have power to cooperate and to contract with the duly authorized representatives of the United States government in carrying out the provisions of this act.

Sec. 4. The veterans' welfare board hereinafter called "the board" shall constitute a body commensurate with the right on behalf of the state to hold property, receive and request donations, sue and be sued and all other rights provided by the constitution and laws of the State of California as belonging to bodies corporate. Three members of the board shall constitute a quorum and such quorum may exercise all the power and authority conferred on the board by this act.

Sec. 5. For the purposes of this act the board may acquire on behalf of the state by purchase, gift or the exercise of the power of eminent domain, all lands, water rights, and other property needed for the purposes hereof and may take title in trust and shall without delay improve, subdivide, and sell such land, water rights and other property with appurtenances and rights to approved bona fide soldiers who are veterans; the board shall have the authority to set side for town site purposes a suitable area purchased under the provisions of this act and to subdivide such area and sell or lease to veterans or others the same for cash, or on such terms as the board may see fit, in lots of such size and with such restrictions as to resale as they shall deem best; and provided, further, that the board shall have authority to set aside and dedicate to public use such area or areas as it may deem desirable for roads, school houses, churches or other public purposes.

Sec. 6. Whenever the board believes that private land should be purchased for settlement under this act it shall give notice by publication in one or more newspapers of general circulation in this state setting forth approximately the area and character of the land desired and the conditions that shall govern the proposed purchase and inviting owners of land willing to enter into a contract of sale on the conditions proposed to

submit such land for inspection.

Sec. 7. Within thirty days thereafter the board shall direct an officer or officers in its employ or one or more persons who may, at its request, be designated by the dean of the college of agriculture of the University of California, to inspect and report on all tracts of land suitable for closer settlement which are so submitted.

Sec. 8. The board shall give not less than one week's notice of the approximate date when tracts submitted will be inspected and every report of such inspection shall as far as practicable specify:

(a) The situation and brief description thereof.

(b) Extent and situation of land comprising formation of any tract as is proposed to acquire.

(c) Names and addresses of the owners thereof.

(d) Character of water rights.

(e) Nature of improvements.

(f) Crops being grown on land.

(g) Appraisement of value of land, water rights and improvements.

Sec. 9. On receiving the reports of all the land examined the board shall decide which of the areas is best suited for the purposes of the act. Before so deciding the board may examine the land or it may employ one or more competent valuers to fix the productive value of the land and report the same in writing. The owner or his agent may give evidence as to its value.

Sec. 10. If, from the evidence submitted, or from the results of its personal inspection, the board is satisfied that one or more of the tracts submitted are suited to intensive closer settlement and can be acquired at a reasonable price it shall submit to the governor its report giving the reasons for recommending the purchase and on the approval of the governor the board shall be authorized to purchase the same; provided, that before such purchase is made the attorney general shall approve the title of such lands and any water rights appurtenant thereto and the state water commission shall certify in writing as to the sufficiency of any water rights to be conveyed.

Sec. 11. All sales to settlers of land under this act shall be made upon such terms and conditions as shall give to the board full control of any subdivisions thereof until all moneys advanced by the state for the purchase, improvements or equipment of such subdivisions are fully repaid together with interest thereon as herein provided.

Sec. 12. Immediately upon taking possession of any land purchased as above or otherwise obtained and after deducting any areas to be set aside for town sites or public purposes in accordance with section five of this act the board shall subdivide it into areas suitable for farms and farm laborer's allotments and lay out and wherever

necessary construct roads, ditches and drains for giving access to and insuring proper cultivation for the several farms and farm laborer's allotments. The board, prior to disposing of it to settlers or at any time after such land has been disposed of but not after the end of the fifth year from the commencement of the term of the settlers' purchase contract may

(a) Prepare all or any part of such land for irrigation and cultivation.

(b) Seed, plant and fence such land and cause dwelling houses and outbuildings to be erected on any farm allotment and make any improvements not specified above necessary to render the allotment profitable and productive in advance of and after settlement, the total cost to the board of such dwelling and outbuildings and improvements not to exceed five thousand dollars on any one farm allotment.

(c) Cause cottages to be erected on any farm laborer's allotment and provide a domestic water supply. The combined cost to the board of the cottage and water supply not to exceed one thousand five hundred dollars on any one farm laborer's allotment.

(d) Make loans not to exceed three thousand dollars to any one settler for the purchase of necessary live stock and equipment such loans to be secured in any manner that the board may direct or without security other than the personal obligation of the settler.

Sec. 13. Authority is hereby granted to the board where deemed desirable to operate and maintain any irrigation works constructed to serve any lands purchased and sold under the provisions of this act. All moneys received in tolls or charges for the operation and maintenance of any works or for any water supplied therefrom shall be deposited in the veterans' welfare fund for land settlement created by this act and shall become available for the payment of any charges or expenses authorized in this act to be paid from said veterans' welfare fund for land settlement.

Sec. 14. After the purchase of land by the board under the provisions of this act and before its disposal to approved bona fide applicants the board shall have authority to lease such land or a part thereof on bonded or secured leases on such terms as it shall deem fit.

Sec. 15. Lands disposed of under this act other than land set aside for town sites or public purposes shall be sold either as farm allotments each of which shall have a value not exceeding, without improvements, fifteen thousand dollars, or as farm laborer's allotments each of which shall have a value not exceeding without improvements one thousand dollars.

Before any part of an area is thrown open for settlement there shall be such notice thereof given once a week for four weeks in one or more daily newspapers of general circulation in the State of California setting forth the number and size of farm allotments or farm laborer's allotments or both, the price at which they are offered for sale, the mode of payment and such other particulars as the board may think proper and specifying a definite period within which applications therefor shall be filed with the board on forms provided by the board. The board shall have the right in its uncontrolled discretion to reject any and all applications it may see fit and may readvertise as

aforesaid as often as it sees fit until it receives and accepts such number of applications as it may deem necessary. If no applications satisfactory to the board are received for any farm allotment or farm laborer's allotment following such advertising the board, at any time prior to readvertising, may sell to a veteran any such farm allotment or farm laborer's allotment at the price at which they were so offered for sale without the necessity of readvertising. The board shall also have the power in dealing with any such farm allotment or farm laborer's allotment for which there has been no such application satisfactory to the board to subdivide or amalgamate any one or more of such allotments as it may see fit and fix and price thereon; provided, that the limitation of fifteen thousand dollars for a farm allotment and one thousand dollars for the farm laborer's allotment, as in this section set forth are not violated. Such subdivision or amalgamation may be had without the necessity or readvertising. The board may also sell at public auction under such conditions of sale and notice thereof as the board may prescribe any areas which the board may determine are not suitable for farm allotments or farm laborer's allotments; provided, if such area has been included in such a farm allotment or farm laborer's allotment, then such sale at public auction can be made only after a failure to receive any application satisfactory to the board after the advertising thereof as required by the terms of this section.

Sec. 15a. The selling prices of the several allotments into which lands purchased under this act are subdivided, other than those set aside for townsite and public purposes, shall be fixed by the board, so as to render such allotments as nearly as possible equally attractive, and calculated to return to the state the original cost of the land, together with a sufficient sum added thereto to cover all expenses and costs of surveying, improving, subdividing, and selling such lands, including the payment of interest, and all costs of engineering, superintendence, and administration, including the cost of operating any works built, directly chargeable to such land, and also the price of so much land as shall on subdivision be used for roads and other public purposes, and also such sum as shall be deemed necessary to meet unforeseen contingencies.

Sec. 16. Any veteran who is not the holder of agricultural land or possessory rights thereto to the value of fifteen thousand dollars and who, by this purchase would not become the holder of agricultural land or possessory rights thereto exceeding such value, and who is prepared to enter within six months upon actual occupation of the land acquired, may apply for and become the purchaser of either a farm allotment or a farm laborer's allotment; provided, that no more than one farm allotment or more than one farm laborer's allotment shall be sold to any one person; provided, further, that no applicant shall be approved who shall not satisfy the board as to his or her fitness successfully to cultivate and develop the allotment applied for. In any such sales preference must be given to veteran trainees in agriculture, under the provisions of the vocational rehabilitation act of congress, approved June 27, 1918, and all acts amendatory thereof or supplemental thereto, or to veterans who were wounded or disabled while a member of the military or naval forces of the United States, and who are otherwise qualified by experience.

Sec. 17. Every approved applicant shall enter into a contract of purchase with the board the terms of which shall be determined by the board. Such applicant shall, if required, by the board enter into an agreement to apply for a loan from the federal land bank under provisions of the federal farm loan act, for an amount to be fixed by the board and shall pay the board the amount of any loan so made as a partial payment on

such land and improvements. The balance due on the land shall be paid in amortizing payments extending over a period to be fixed by the board not exceeding forty years together with interest thereon at the rate of five per cent per annum compounded at periods to be fixed by the board; the amount due on improvements shall be paid in amortizing payments extending over a period to be fixed by the board not exceeding twenty years together with interest at the rate of five per cent per annum compounded at periods to be fixed by the board; the repayments of loans shall extend over a period to be fixed by the board not exceeding five years; provided, however, in each case, that the settler shall have the right on installment date to pay any or all installments still remaining unpaid; provided, further, that the board may in any individual case postpone from time to time the whole or any portion of any payment, initial or otherwise, of principal or interest, on account of land improvements or loans, upon such terms as the board may determine proper.

Sec. 18. Every contract entered into between the board and an approved purchaser shall contain among other things provisions that the purchaser shall cultivate the land in a manner to be approved by the board and shall keep in good order and repair all buildings, fences and other permanent improvements situated on his allotment, reasonable wear and tear and damage by fire excepted. Each settler shall, if required, insure and keep insured against fire all buildings on his allotment, the policies therefor to be made out in favor of the board and to be in such amount or amounts and in such insurance companies as may be prescribed by the board.

The board shall have power in its own name to insure and keep insured against fire and such other risks as the board may determine, all buildings or other improvements on any of the lands under the control of the board. The board shall likewise have the power in any contract of purchase under which the board purchases lands as authorized in this act, to provide for the return by the board to the owner so selling to the state of any insurance premium or taxes which may have been paid on said property by such owner or for which such owner may have become obligated to pay.

Sec. 19. No allotment sold under the provisions of this act shall be transferred, assigned, mortgaged, or sublet in whole or in part, without the consent of the board given in writing, until the settler has paid for his farm allotment or farm laborer's allotment in full and complied with all of the terms and conditions of his contract of purchase.

Sec. 20. In the event of a failure of a settler to comply with any of the terms of his contract of purchase and agreement with the board, the state and the board shall have the right at its option to cancel the said contract of purchase and agreement and thereupon shall be released from all obligation in law or equity to convey the property and the settler shall forfeit all right thereto and all payments theretofore made shall be deemed to be rental paid for occupancy. The board may require of the settler such mortgage or deed of trust or other instrument as may be necessary under the terms and conditions of the contract of purchase in order to adequately protect and secure the board. There may be included in such contract of purchase, mortgage, deed of trust or other instrument any conditions with reference to sale of the property of reconveyance back to the board or notice of such sale or reconveyance as may in the discretion of the board be required to be so included in such contract of purchase, mortgage, deed of trust or other instrument, in order to so adequately protect the said board in the premises. The

failure of the board or of the state to exercise any option to cancel, or other privilege under the contract of purchase for any default shall not be deemed as a waiver of the right to exercise the option to cancel or other privilege under the contract of purchase for any default thereafter on the settler's part. But no forfeiture so occasioned by default on the part of the settler shall be deemed in any way, or to any extent, to impair the lien and security of the mortgage or trust instrument securing any loan that it may have made as in this act provided. The board shall have the right and power to enter into a contract of purchase for the sale and disposition of any land forfeited as above provided, because of default on the part of a settler, and this right may be exercised indefinitely without the necessity of advertising.

If illness or accident prevents a settler from cultivating his land or harvesting any crop or crops growing thereon, the board may cultivate the land or cause it to be cultivated, or harvest, or cause to be harvested the crop or crops growing thereon. In such event the board may sell such crop or crops so harvested. Out of the proceeds of such sale or sales the board may reimburse itself for any expense which it may have incurred in the cultivation of the land, the harvesting of the crops and the sale thereof, and retain any moneys due to the board from the settler, and the balance, if any, shall be paid by the board to the settler.

Sec. 21. Actual residence on any allotment sold under the provisions of this act shall commence within six months from the date of the approval of the application and shall continue for at least eight months in each calendar year for at least five years from the date of the approval of the said application, unless prevented by illness or some other cause satisfactory to the board; provided, that in case any allotment disposed of under this act is returned to and resold by the state, the time of residence of the preceding purchaser may in the discretion of the board be credited to the subsequent purchaser.

Sec. 22. The power of eminent domain shall be exercised by the state at the request of the board for the condemnation of water rights and rights of way for roads, canals, ditches, dams and reservoirs, necessary or desirable for carrying out the provisions of this act, and on request of the board the attorney general shall bring the necessary and appropriate proceedings authorized by law for such condemnation of said water rights or rights of way, and the cost of all water rights or rights of way so condemned shall be paid out of the veterans' welfare fund for land settlement hereinafter provided for. The board shall have full authority to appropriate water under the laws of the state when such appropriation is necessary or desirable for carrying out the purposes of this act.

Sec. 23. For the purpose of carrying out the provisions of this act the sum of one million dollars is hereby appropriated out of any money in the state treasury not otherwise appropriated. Of this amount the sum of nine hundred fifty thousand dollars shall constitute a revolving fund to be known as veterans' welfare fund for land settlement which is calculated to be returned to the state within a period of fifty years from the effective date of this act with interest at the rate of four per cent per annum on so much thereof as shall be withdrawn from said veterans' welfare fund for land settlement, from the date of withdrawal until returned into said veterans' welfare fund for land settlement, or until returned into the general fund in the state treasury, as the case may be; provided, that in the event of the sale of any bonds which may be hereafter authorized to be issued to create a fund to be expended in accordance with the

provisions of this act, then and in that event the sum of nine hundred fifty thousand dollars hereby appropriated shall be returned into the general fund in the state treasury from the proceeds of the sale of such bonds. The remaining fifty thousand dollars shall constitute a fund available for the payment of administrative expenses alone until such time as other moneys are available for such purposes from the sales of land as provided for in this act.

The state controller is authorized and directed to draw warrants upon such funds from time to time upon requisition of the board approved by the state board of control and the state treasurer is hereby authorized and directed to pay such warrants.

Sec. 24. The state board of control is hereby authorized to provide for advances of money to the board needed to meet contingent expenses to such an amount not exceding [sic] twenty-five thousand dollars as the said board of control shall deem necessary, which advances shall be administered as a revolving fund or revolving funds.

Sec. 25. The money paid by settlers on lands, improvements, or in the repayment of advances, shall be deposited in the veterans' welfare fund for land settlement and be available under the same conditions as the original appropriation.

Sec. 26. The board shall have authority to make all needed rules and regulations for carrying out the provisions of this act.

Sec. 27. The board is hereby authorized to investigate soldiers' land settlement conditions in California and elsewhere and to submit recommendations for such legislation as may be deemed by it necessary or desirable. The board shall render an annual report to the governor and a copy thereof to the secretary of the interior which report shall be filed and printed as required by sections three hundred thirty-two, three hundred thirty-three, three hundred thirty-four, three hundred thirty-six and three hundred thirty-seven of the Political Code with the exception that they shall be so filed annually instead of biennially as provided in such sections. Except as herein otherwise provided no land acquired under the provisions of this act shall in any event become liable for any debt contracted prior to the issuance of a deed by the board therefor.

Sec. 28. The board shall, as far as possible, utilize the services of veterans in administrative and other work for the purposes of carrying out the provisions of this act. Nothing contained in that certain act entitled, "An act to provide for a general system based upon investigation as to merit, efficiency and fitness, for appointment to and holding during good behavior of office and employment under state authority and, in that behalf, to create a state civil service commission, to prescribe its powers and duties, to make the willful violation of the provisions of this act a misdemeanor, to repeal all acts and parts of acts inconsistent herewith in so far as they may be inconsistent with the provisions of this act, and to make an appropriation therefor," approved June 16, 1913, or in any acts amendatory thereof or supplementary thereto, or in any other act or acts whatsoever, shall limit the power of the board to utilize the services of veterans in administrative and other work, for the purpose of carrying out the provisions of this act.

Sec. 29. Any veteran who has taken advantage of the benefits of the veterans' farm and home purchase act adopted at the forty-fourth session of the legislature of the State of California shall be precluded from taking advantage of the opportunities offered

under the provisions of this act.

Sec. 30. It is hereby made the duty of all state, county, city and county officials to furnish and give all required information to the veterans' welfare board, upon request, and shall further assist said board in any manner in accordance with law and without charge therefor.

Sec. 31. If any section, subsection, sentence, clause or phrase of this act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this act. The legislature hereby declares that it would have passed this act, and each section, subsection, sentence, clause and phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared unconstitutional.

The Veterans' Farm and Home Purchase Act (Chapter 519, Statutes 1921), validated by the proposed amendment reads as follows:

Section 1. This act may be cited as the "veterans' farm and home purchase act."

Sec. 2. As used in this act the term "veteran" includes any individual who has served on active duty in the army, navy or marine corps of the United States in time of war and has received an honorable discharge therefrom or who has been released from active duty under honorable conditions and who was, at the time of his enlistment, induction, commission or drafting, a bona fide resident of the State of California, but does not includeþ

1. Any individual at any time after April 5, 1917, and before November 12, 1918, or thereafter separated from such forces under other than honorable conditions.

2. Any conscientious objector who performed no military duty whatever or refused to wear the uniform; or

3. Any alien at any time during such period or thereafter discharged from the military or naval forces on account of his alienage.

Sec. 3. The object of this act is to furnish to veterans the opportunity to purchase farms, homes and home sites, and the administration of the provisions hereof is hereby vested in the veterans' welfare board as created by the California veteran's welfare act adopted at the forty-fourth session of the legislature of the State of California.

Sec. 4. The board may purchase for sale to a veteran land for agricultural purposes not exceeding in value the sum of seven thousand five hundred dollars or a home or home site not exceeding in value the sum of five thousand dollars; provided, however, that no veteran who has taken advantage of the benefits of the California veterans' welfare act or of educational opportunities furnished by any act adopted at the forty-fourth session of the legislature of the State of California, or who has received a bonus or adjusted compensation from this state shall be permitted to take advantage of the opportunities offered under this act; provided, further, that no veteran shall receive the benefits of this act who would thereby become the holder of land exceeding in value, in the case of a farm, the sum of seven thousand five hundred dollars, or in the case of a

home or home site, the sum of five thousand dollars; provided, further, that in any sales preference must be given to veterans who were wounded or disabled while a member of the military or naval forces of the United States, and who are otherwise qualified.

Sec. 5. Any person, firm or corporation within the State of California may list any real estate therein for the price at which the same will be sold by the person listing same with the board in such form, and with such specifications, as the board may direct.

Sec. 6. Whenever a veteran has selected the land or home he desires to purchase under the provisions hereof, whether said property has been listed with the board or not, he shall file his application with the board in such form as may be prescribed by the board, setting forth such information as may be required by the board. Whenever such an application is made, the board, if satisfied of the desirability of the real estate and of the ability of the applicant and that such applicant is a veteran and that such applicant has agreed with the board to actually reside upon such real estate within six months from the date of the purchase by the board and that the price to be paid by the board for the real estate desired to be purchased does not exceed the sum of seven thousand five hundred dollars in the case of a farm, or five thousand dollars in the case of a home or home site, shall be empowered to enter into a contract of purchase with the owner and to purchase from the owner thereof upon such terms as may be by them agreed. The board shall enter into a contract with the applicant for the sale of said land to said applicant at a price to be fixed by the board, which will make the purchase price and sale price reciprocal, taking into account the difference, if any, in the interest rate to be paid on deferred installments by the board and the applicant respectively, which price shall include the cost of such real estate and all expenses and costs incurred and estimated to be incurred by the board in relation thereto inclusive of interest, administration, appraisals, examination of title, incidental expenses and such sum as shall be deemed necessary to meet unforeseen contingencies; provided, that the applicant repurchasing the land from the board must make an initial payment of at least ten per cent of the purchase price of the land, in the case of a farm, and five per cent in the case of a home or home site. The balance of said purchase price may be amortized over a period to be fixed by the board not exceeding forty years, together with interest thereon at the rate of five per cent per annum compounded at periods to be fixed by the board; provided, however, that in each case the farm or home purchaser shall have the right on any installment date to pay any or all installments still remaining unpaid; provided, however, that in any individual case the board may for good cause postpone from time to time the whole or any part of the principal or interest of any payment other than the initial payment upon such terms as the board may deem proper. The board is empowered in each individual case to determine the terms of the contract entered into with the applicant, but no real estate sold under the provisions of this act shall be transferred, assigned, mortgaged, or sublet, in whole or in part, without the written consent of the board, until the purchaser has paid therefor in full and has complied with all the terms and conditions of his contract of purchase. Before entering into any contract for the purchase of real estate by the board there must be filed with the board an appraisement of the market value of the real estate proposed to be purchased by the president, cashier or manager of a banking corporation formed under and by virtue of the laws of the State of California and having its principal place of business in the county or city and county in which the real estate or some portion thereof is situate; providing, that if there be no such banking corporation having its principal place of

business in the county or city and county in which the real estate is situate, then by the president, cashier or manager of a banking corporation organized under and in accordance with the laws of California and having its principal place of business in a county adjacent thereto; and by an inheritance tax appraiser of the county in which said real estate or some portion thereof is situated and by at least two members of the board. Each appraisement shall be verified by the maker thereof which verification shall state, among other things, that it is made in good faith and that the valuation is justly determined and represents the bona fide opinion of the maker.

Sec. 7. The contract entered into between the board and an approved purchaser shall contain, among other things, provisions that the purchaser shall maintain said farm or home as a place of residence and keep in good order and repair all buildings, fences and other permanent improvements situate thereon and that each purchaser shall, if required, insure and keep insured against fire all buildings on said land, the policies thereof to be made out in favor of the board and to such amount or amounts and in such insurance companies as may be by it specified. The board may require that the purchaser shall give some form of personal insurance, either accident or health, or some other form sufficient to carry him or his family through a period of illness, or to enable him to make his payments when due.

The board, before consummating a purchase under the provisions of this act, shall cause the title of the real estate sought to be purchased to be examined and may require for that purpose either an abstract or an unlimited certificate of title and may refer the same to the attorney general for his opinion.

In the event of a failure of a farm or home purchaser to comply with any of the terms of his contract of purchase, the board may cancel such contract under the same conditions and with the same effect, including the right of a resale after forfeiture, as provided for the cancellation of a settler's contract of purchase under the provisions of the California veterans' welfare act adopted at the forty-fourth session of the legislature of the State of California.

Sec. 8. The board shall have authority to make all needed rules and regulations for carrying out the provisions of this act. For the purposes of carrying out the provisions of this act the sum of two million dollars is hereby appropriated out of any money in the state treasury not otherwise appropriated. Of this amount the sum of one million nine hundred fifty thousand dollars shall constitute a revolving fund to be known as the veterans' farm and home building fund which is calculated to be returned to the state within a period of fifty years from the effective date of this act with interest at the rate of four per cent per annum on so much thereof as shall be withdrawn from said veterans' farm and home building fund from the date of withdrawal until returned into said fund, or until returned into the general fund in the state treasury, as the case may be; provided, that in the event of the sale of any bonds which may be hereafter authorized to be issued to create a fund to be expended in accordance with the provisions of this act, then and in that event the said sum of one million nine hundred fifty thousand dollars hereby appropriated shall be returned into the general fund in the state treasury out of the proceeds from the sale of such bonds. The remaining fifty thousand dollars shall constitute a fund available for the payment of administrative expenses alone until such time as other moneys are available for such purposes from the sales of real estate as provided for in this act. The state controller is authorized and directed to draw warrants

upon such funds from time to time upon requisition of the board approved by the state board of control and the state treasurer is hereby authorized and directed to pay such warrants.

Sec. 9. The state board of control is hereby authorized to provide for advances of money to the board needed to meet contingent expenses to such an amount not exceeding twenty-five thousand dollars, as the said board of control shall deem necessary, such advances to be administered as a revolving fund of revolving funds.

Sec. 10. The money paid by purchasers from the board shall be deposited in the veterans' farm and home building fund and be available under the same conditions as the original appropriation.

If any section, subsection, sentence, clause or phrase of this act is for any reason held to be unconstitutional such decision shall not affect the validity of the remaining portions of this act. The legislature hereby declares that it would have passed this act, and each section, subsection, sentence, clause and phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared unconstitutional.

CODE Added Cal. Const. art. IV, section 31.

Case Checked. ().

Full Text

Record: 179

Proposition #	**28**
Title	**LEGISLATIVE REAPPORTIONMENT**
Year/Election	**1926** general
Proposition type	initiative
Popular vote	Yes: 437,003 (54.6%); No: 363,208 (45.4%)
Pass/Fail	Pass
Summary	Amends Constitution, Article IV, Section 6. For choosing legislators requires Legislature, immediately following each Federal census, and next Legislature using 1920 census, to divide State into forty senatorial and eighty assembly districts, comprising contiguous territory, with assembly districts as equal in population as possible, no county or city and county containing more than one senatorial district, and no senatorial district comprising more than three counties of small population; creates Reapportionment Commission, comprising Lieutenant Governor, Attorney General, Surveyor General, Secretary of State and State Superintendent of Public Instruction, to make apportionment if Legislature fails to act.
For	**Argument in Favor of Legislative Reapportionment Initiative Measure.**

"FEDERAL PLAN."

This proposed constitutional amendment will take the place of section 6, article 4, of the constitution of California, which now provides that the state shall be divided into forty senatorial districts and eighty assembly districts "as nearly equal in population as may be, and composed of contiguous territory."

The growth of city population in California, and particularly the unprecedented development of the two great urban regions of the state, will have the effect, if representation is reapportioned according to present law, of consolidating political power in the inhabitants of 3 per cent of the area of the state to the prejudice of the representative rights of the balance of the population who inhabit 97 per cent of the area of the state. The state legislature, foreseeing disadvantages to the general interests of the state, has repeatedly declined, since the publication of the last federal census, to reapportion representation on the basis of the existing law.

The present amendment would alter the constitution so as to enable the legislature to find a solution to the difficulty that will protect the right of the great bulk of the state to fair representation.

The plan is called the "Federal Plan" because its provisions resemble those of the federal constitution with respect to representation in the United States congress. It rests upon a principle widely recognized in American government and other governments that representation in a public assembly is equitably apportioned not according to population **alone** but according to **two** factors -- **population and territory.**

The measure will preserve to rural California and the great agricultural producing areas which comprise it, the control of one house of the state legislature, namely: the senate. The measure makes no change in assembly districts. It does not increase the members of the legislature. It can not, in any way, add to state expense.

Under this plan no county or city and county has more than one senator. The small counties are grouped, but are given at least one senator to each three counties. There are fifty-eight counties in the state and forty senators. To illustrate the working of the plan, twenty-seven of these counties might, by reason of superior population, each elect one senator; sixteen counties grouped in twos might elect eight; and fifteen counties grouped in threes might elect five. Every large homogeneous geographical area of the state is assured one representative in the senate.

Twenty-nine states of the Union have based their legislative representation in some form upon this principle, and these states include, among others, New York, Pennsylvania, Massachusetts, Iowa, and Ohio. The principle was submitted to a popular election in Ohio in 1903, and was overwhelmingly adopted by 731,000 votes for it and only 26,479 votes against the principle. This amendment is sponsored by the California Farm Bureau Federation, the State Grange, the Farmers Union, and the Agricultural Legislative Committee. But it is also supported by chambers of commerce, women's clubs, and civic organizations generally throughout the state. It will create a well-balanced legislature in which neither the cities nor the countryside may predominate. It is a just and wholesome provision. It will give the state a better legislature than is possible under present law, and will be a fair determination of a controversy disturbing to the best interests of California.

Vote YES on this amendment.

FOR(au) David P. Barrows

Against **Argument Against Legislative Reapportionment Initiative Measure.**

The proposed amendment is unfair and impractical so far as it relates to senatorial districts.

The provision that no county or city and county shall contain more than one senatorial district would limit Alameda, Los Angeles and San Francisco to one senator each. These three combined have 200,000 more than half of the population of the state, so the result would be that the majority would have only three senators, and the minority would be represented by thirty-seven senators. There is no good reason for the discrimination.

The agricultural and commercial interests are so closely allied and interwoven that neither one as such should have the greater power in legislation. The only fair way is to base the representation on population, in accordance with the fundamental principles of our government that the majority shall rule.

The amendment prescribes no method of determining how the senatorial districts shall be formed. It merely provides that counties of small population shall be grouped in districts of not more than three counties in one district. It is left to the legislature or reapportionment commission to determine arbitrarily and without restriction how it shall be done. Many of the counties of small population are contiguous, so it will follow that sparsely settled districts must be formed, and even the agricultural sections will not have equal representation in the senate as among themselves.

The populous counties pay the greater share of taxes, and should have the controlling voice in the expenditure of the state's funds.

If the citizens of these centers should vote for this amendment they would help to disfranchise themselves.

Vote NO and preserve American principles.

Against(au) Dana R. Weller

Text of Prop. Sufficient qualified electors of the State of California present to the secretary of state this petition and request that a proposed measure, as hereinafter set forth, be submitted to the people of the State of California for their approval or rejection, at the next ensuing general election. The proposed measure is as follows:

PROPOSED AMENDMENT.

(Proposed changes in provisions are printed in black- faced[BOLD] type.)

ARTICLE IV.

Section 6. For the purpose of choosing members of the legislature, the state shall be divided into forty senatorial and eighty assembly districts to be called senatorial and assembly districts. **Such districts shall be composed of contiguous territory, and assembly districts shall be as nearly equal in population as may be.** Each senatorial district shall choose one senator, and each assembly district shall choose one member of assembly. The senatorial districts shall be numbered from one to forty, inclusive, in numerical order, and the assembly districts shall be numbered from one to eighty in the same order, commencing at the northern boundary of the state and ending at the southern boundary thereof. In the formation of **assembly** districts no county, or city and county, shall be divided, unless it contains sufficient population within itself to form two or more districts, **and in the formation of senatorial districts no county, or city and county, shall be divided,** nor shall a part of any county, or of any city and county, be united with any other county, or city and county, in forming any **assembly or senatorial** district. The census taken under the direction of the congress of the United States in the year one thousand **nine hundred and twenty**, and every ten years thereafter, shall be the basis of fixing and adjusting the legislative districts; and the legislature shall, at its first **regular** session **following the adoption of this section and thereafter at the first regular session following each decennial federal** census, adjust such districts and reapportion the representation so as to preserve **the assembly districts** as nearly equal in population as may be **; but in the formation of senatorial districts no county or city and county shall contain more than one senatorial district, and the counties of small population shall be grouped in districts of not to**

exceed three counties in any one senatorial district; provided, however, that should the legislature at the first regular session following the adoption of this section or at the first regular session following any decennial federal census fail to reapportion the assembly and senatorial districts, a reapportionment commission, which is hereby created, consisting of the lieutenant governor, who shall be chairman, and the attorney general, surveyor general, secretary of state and state superintendent of public instruction, shall forthwith apportion such districts in accordance with the provisions of this section and such apportionment of said districts shall be immediately effective the same as if the act of said reapportionment commission were an act of the legislature, subject, however, to the same provisions of referendum as apply to the acts of the legislature.

Each subsequent reapportionment shall carry out these provisions and shall be based upon the last preceding federal census. But in making such *adjustments* no persons who are not eligible to become citizens of the United States, under the naturalization laws, shall be counted as forming a part of the population of any district. Until such districting as herein provided for shall be made, senators and assemblymen shall be elected by the districts according to the apportionment now provided for by law.

EXISTING PROVISIONS.

(Provisions proposed to be repealed are printed in italics.)

Sec. 6. For the purpose of choosing members of the legislature, the state shall be divided into forty senatorial and eighty assembly districts, as nearly equal in population as may be, and composed of contiguous territory, *to be called senatorial and assembly districts.* Each senatorial district shall choose one senator, and each assembly district shall choose one member of assembly. The senatorial districts shall be numbered from one to forty, inclusive, in numerical order, and the assembly districts shall be numbered from one to eighty in the same order, commencing at the northern boundary of the state and ending at the southern boundary thereof. In the formation of *such* districts no county, or city and county, shall be divided, unless it contains sufficient population within itself to form two or more districts, nor shall a part of any county, or of any city and county, be united with any other county, or city and county, in forming any district. The census taken under the direction of the congress of the United States in the year one thousand *eight hundred and eighty*, and every ten years thereafter, shall be the basis of fixing and adjusting the legislative districts; and the legislature shall, at its first session *after each* census, adjust such districts and reapportion the representation so as to preserve *them* as near equal in population as may be. But in making such adjustment no persons who are not eligible to become citizens of the United States, under the naturalization laws, shall be counted as forming a part of the population of any district. Until such districting as herein provided for shall be made, senators and assemblymen shall be elected by the districts according to the apportionment now provided for by law.

CODE Amended Cal. Const. art. IV, section 6.

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Record: 245

Proposition #	**2**
Title	**STATE LIQUOR REGULATION**
Year/Election	**1932** general
Proposition type	initiative
Popular vote	Yes: 1,308,428 (64.2%); No: 730,522 (35.8%)
Pass/Fail	Pass
Summary	Declares, if Wright Act is repealed, and when lawful under Federal Constitution and laws, State of California shall have exclusive right to license and regulate the manufacture, sale, possession, transportation, importation and exportation, of intoxicating liquors; prohibits public saloons, bars or drinking places where intoxicating liquors are kept, sold or consumed; permits serving wine and beer with meals furnished in good faith to patrons of hotels, boarding houses, restaurants and public eating places; permits Legislature to authorize, under reasonable restrictions, sale of liquor in original packages in retail stores where same not consumed therein.
For	**Argument in Favor of Initiative Proposition No. 2**

Every state should have the right to control and regulate the liquor traffic within its borders. That right was reserved by the states when our Federal Government was formed. Until the adoption of the Eighteenth Amendment, every state, through its police power, exercised that sovereign right. If the Eighteenth Amendment be repealed, each state will determine whether it shall accept or reject prohibition.

The colossal failure of our national Government to enforce prohibition necessitates a change from federal to state control of the liquor traffic. To effect that change, the Eighteenth Amendment must be repealed, and when repealed, California must for itself control and regulate the manufacture and sale of intoxicating liquors.

With that end in view, our State Constitution should be amended by adoption of proposition number 2 on the official ballot.

The proposed Amendment gives the State exclusive control of the liquor traffic, when permissible under the Federal Constitution and laws. It prohibits return of the saloon, but provides that

"in hotels, boarding houses, restaurants, cafes and cafeterias * * * wines and beer may be served or consumed with meals furnished in good faith."

PROHIBITION MUST BE ABOLISHED

Not only is the curse of prohibition responsible for astounding increase of crime, organized and unorganized; overcrowding of jails, penitentiaries and lunatic asylums; violation of prohibition laws by all classes of society; growing disrespect of the masses for all laws; gangster rule in large cities, unregulated speak-easies outnumbering the saloons of former days, maintained through corruption of officials employed to enforce the law; detestable cowardice and transparent hypocrisy of law-makers with dry tongues and wet gullets, who for twelve years at the dictation of an intolerant minority have kept the people in shackles; and the debauchery of our boys and girls; but it is one of the contributing causes of the prevailing economic depression and unemployment.

Repeal of the Wright Act will be followed by repeal of similar laws in other states and the ultimate repeal of the Volstead Act and the Eighteenth Amendment with the following beneficent results:

Restoration to the states of their rights and to the people, their freedom.

Improvement of the morals of the people.

Permanent exclusion of the public saloon and suppression of its substitute the secret saloon or speak-easy.

Enormous increase of revenues of United States and state governments and corresponding reduction of taxes.

Saving of vast amounts of money squandered by national, state and local governments in futile efforts to enforce prohibition.

Investment of hundreds of millions of capital in business and industries destroyed or injured by prohibition and employment in such business and industries of approximately one million men and women now facing starvation, including tens of thousands in California.

Profitable returns to those engaged in raising grapes, hops, barley, rice and other crops used in the manufacture of intoxicating liquors.

Temperance, contentment and prosperity of a free people.

Vote "Yes" on Proposition number 2.

FOR(au) Matt. I. Sullivan

FOR(au) Eleanor B. Macfarland

Against **Argument Against Initiative Proposition No. 2**

This is not a measure to enact any present law, but is a constitutional amendment to prevent the possible passage of certain laws in a hypothetical future contingency. Its principal effect would be to deprive a future legislature, in the event of the repeal of national prohibition, of the power then to pass a local option law, such as California had before national prohibition, and to make unconstitutional in California any local

regulation or prohibition of intoxicating liquor. It would rivet into the constitution the state prohibition of local prohibition, and would do it now, when there is no occasion for any action at all, as a guarantee in advance against any future limitation or control of the sale of liquor by cities or counties.

The proposal does not even meet the suppositious emergency of a possible interval, if both the Wright act and national prohibition should be repealed, in which California would have no liquor law at all and there might be a temporary orgy, pending action by the legislature, of the unrestrained sale of any sort of intoxicants, anywhere, by anybody, to anybody. Action by the legislature to meet that situation would be equally necessary with or without this amendment, and the legislature would have even more power without it.

No special provision in the state constitution is required to confer on the state the authority to regulate the liquor traffic, if the national prohibition of such regulation were removed. The state already had and exercised that right, under its inherent police power, without special authorization, before national prohibition, and would automatically resume it if that inhibition should cease. What this amendment professes to confer on the state is not the power to regulate, which would exist anyway, but the "exclusive" power -- that is, the limitation of the power to the state, exclusive of any right in the localities.

No authorization is given even to the state to prohibit or to authorize local prohibition, and the right of any sort of regulation is taken from the counties and the cities entirely. State regulation would naturally have to be by uniform law, the same everywhere. The permission of the sale of beer and wine is made expressly and constitutionally compulsory everywhere, beyond even the power of the legislature to prevent, and that of hard liquor is contingently so. It would have to be permitted everywhere under any conditions by which it was authorized anywhere.

If California should ever wish to take so reactionary a step, back to a condition which it had long outgrown even before national prohibition, it should at least be done on due notice, by the decision of the people or the legislature at that time. To attempt now to slip it into the constitution in advance, by this preposterous proposal at a time when it could have no present effect and has no present reason, would be inexcusable.

Vote "No!"

Against(au) Chester H. Rowell

Against(au) Mrs. Susan M. Dorsey

Text of Prop. Sufficient qualified electors of the State of California have presented to the secretary of state a petition and request that the proposed amendment to the constitution hereinafter set forth be submitted to the people of the State of California for their approval or rejection at the next ensuing general election. The proposed amendment to the constitution is as follows:

(This proposed amendment does not amend any existing section of the Constitution but adds a new section thereto; therefore the provisions thereof are printed in **BLACK-FACED[BOLD] TYPE** to indicate that they are **NEW**.)

PROPOSED AMENDMENT TO THE CONSTITUTION.

First. A new section numbered 22 is hereby added to Article XX of the Constitution of the State of California, to read as follows:

Sec. 22. In the event of the repeal of the State Prohibition Enforcement Law, commonly known as the Wright Act, and if and when it shall become lawful under the Constitution and laws of the United States to manufacture, sell, purchase, possess or transport intoxicating liquor for beverage purposes within the United States, the State of California, subject to the internal revenue laws of the United States, shall have the exclusive right and power to control, license and regulate the manufacture, sale, purchase, possession, transportation and disposition of intoxicating liquor within the state, and, subject to the laws of the United States regulating commerce between foreign nations and among the states, shall have the exclusive right and power to control and regulate the importation into and the exportation from the state of intoxicating liquor; provided, however, no public saloon, public bar or barroom or other public drinking place where intoxicating liquors to be used for any purpose shall be kept, bought, sold, consumed or otherwise disposed of, shall ever be established, maintained or operated within the state; provided, further, subject to the above provisions, that in hotels, boarding houses, restaurants, cafes, cafeterias and other public eating places, wines and beer may be served and consumed with meals furnished in good faith to the guests and patrons thereof, and the legislature may authorize, subject to reasonable restrictions, the sale in retail stores of liquor is not to be consumed on the premises where sold.

CODE Added Cal. Const. art. XX, section 22.

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Record: 277

Proposition #	**2**
Title	**INTOXICATING LIQUORS**
Year/Election	**1934** general
Proposition type	initiative
Popular vote	Yes: 1,262,315 (63.9%); No: 714,303 (36.1%)
Pass/Fail	Pass

Summary

Amends Constitution, Article XX, section 22. Prohibits consumption, sale, or disposition for consumption on premises, of intoxicating liquors, except beer, in public saloons or barrooms; permits possession, sale, consumption or disposition of all liquors in bona fide hotels, restaurants, public eating places, and in bona fide clubs after one year's lawful operation; fixes license fees therefor, giving Board of Equalization exclusive power to change same, issue liquor licenses, collect license fees and occupation taxes, requiring Legislature apportion proceeds therefrom between State, counties and cities. Continues State Liquor Control Act provisions, consistent herewith, until Legislature provides otherwise.

For

Argument in Favor of Initiative Proposition No. 2

When the people two years ago voted for repeal and adopted the present enforcement law it was undoubtedly their intention to definitely repudiate prohibition with all of its evils and bring the sale of beer, wine and liquor out into the open under conditions that would make for law, order and temperance.

How far this emphatic expression of public sentiment missed its mark is indicated by the fact that it is still illegal to sell beer or wine, except with meals or to serve liquor by the drink WITH or WITHOUT MEALS. The State Supreme Court, in a recent decision, has so held and the authorities have permitted such sales to continue only until November 6th when the mandate of the people is known.

It was to meet the needs of this situation that Proposition 2 was formulated and submitted to the people. This measure, providing safe, sane and enforceable provisions, will make it clearly legal for the people to be served beer, wine and liquor by the drink with or without meals in restaurants, hotels, bona fide clubs and other legitimate eating places. At the same time the measure definitely prohibits the return of the hard liquor saloon.

Proposition 2 keeps the control of the liquor situation in the hands of the State, where it properly belongs and where it will be free of local political influences. The

elective State Board of Equalization is given power to fix fees, as at present, and vested with broadened authority to eliminate undesirable places.

The issue is clear-cut. The sale of beer and wine, with or without meals, and of hard liquor by the drink, with or without meals, must stop in California after November 6th unless the people approve Proposition 2 at the polls. In voting for this proposition the people will vote for the open and regulated sale of all intoxicating liquors, with or without meals, in legitimate eating places so licensed by the State Board of Equalization.

By voting for Proposition 2 the people will vote for an enforceable measure that will make for temperance, business stability and increased employment. By failing to adopt this measure, the people will serve notice on the authorities to attempt to enforce the present law, which can only drive the liquor business back to the unregulated speakeasy and the bootlegger.

It requires no discussion here to tell the voters what will result from such attempted enforcement. Through the long years of prohibition we saw all of the evils of the speakeasies, bedroom drinking, the debauchery of our children and the growth of an era of crime and license that will long be a blot on our country.

In behalf of good government and in order to keep California in pace with the Nation in the matter of liberal and enforceable legislation entitled to public respect and observance -- VOTE "YES" ON PROPOSITION NO. 2.

FOR(au) S. F. B. Morse |t President, Northern California Business Council

FOR(au) Byron C. Hanna |t President, Southern California Business Men's Association

Against **Argument Against Initiative Proposition No. 2**

The proposed amendment is lacking in good sportsmanship; is vicious in principle; is lacking in sincerity in that it provides for saloons, by other names, though its authors profess to hate this great American institution of preprohibition days; it embodies in the Constitution a liquor regulatory ordinance and prohibits to local communities the inalienable right of self-determination as to the sale of intoxicating liquors within their limits. The proposed amendment should be overwhelmingly defeated; and we confidently believe that it will be, not only for the reasons herein stated, but also for many other reasons that will readily occur to each voter.

On November 8, 1932, the California Constitution was amended by the adoption of section 22, Article XX, which amendment was popularly known and referred to as Number Two. This amendment permits any establishment serving food to also serve wine and beer, and gives to the State the exclusive control of intoxicating liquors (except when within the jurisdiction of the Federal government) and authorizes the Legislature to permit the sale in retail stores of liquor contained in original packages, where such liquor is not to be consumed on the premises where sold. The amendment was drafted by the liquor forces of the State and was adopted after a vigorous campaign conducted by the *same men* who are now proposing the amendment to be considered by the voters at the November election. The arguments and campaign literature made and used in 1932, pledged the people of the State of California in the language of the proposed amendment that no "public saloon, public bar or barroom, or other public drinking place where intoxicating liquors to be used for any purpose shall be kept,

bought, sold, consumed, or otherwise disposed of, shall ever be established, maintained or operated within the State."

The language was designedly used to disarm the voters who might not favor prohibition and yet did not wish a return of the saloon, that had achieved such an unenviable reputation as to be denounced not only by the minority political parties, but by the platforms of the Democratic and Republican parties as well.

The campaign backers evidently believed that these restrictions, contained in the amendment adopted November 8, 1932, were necessary in order to insure its adoption.

Having succeeded in this purpose, and thereby having pledged their good faith to a fair trial of their amendment, is it good sportsmanship to now ask the voters to remove the restrictions that they themselves conceded, two short years ago, were essenial[sic] in order to protect our citizens from the inherent evils incident to the unrestricted sale and consumption of intoxicating liquors; for, in substance and effect, that will be the result of the adoption of the proposed amendment to section 22 of Article XX. This amendment, if adopted, reiterates the exclusive power of the State (subject only to Federal laws) "to license and regulate" (not prohibit) intoxicating liquor within the State. It provides that intoxicating liquors "*other than beers,*" shall not be consumed, bought, sold, or otherwise disposed of for consumption on the premises in any public saloon, public bar or public barroom within the State; but that, subject to this restriction, "*all intoxicating liquors* may be kept and may be bought, sold, served, consumed, and otherwise disposed of *in any* bona fide hotel, restaurant, cafe, cafeteria, railroad dining or club car, passenger ship, or other public eating place, or in any bona fide club after such club has been lawfully operated for not less than one year."

Would we not have had more respect for the proponents of this amendment if they had not attempted this deception and boldly disclosed that the apparent condemnation of the "saloon" and "bar" and "barroom" was a mere subterfuge in deference to public opinion, and, that what was really intended was the removal of all restrictions upon the manufacture, sale, or consumption of intoxicating liquors, except those rules and regulations that might be imposed by a complacent Board of Equalization for the production of the greatest amount of revenue? That this would be the result is perfectly obvious from even a superficial reading of the proposed amendment. To denounce the saloon and then to provide the most ample opportunities for the sale and consumption of all intoxicating beverages on the premises where sold is an insult to the intelligence of the voters, for to change only the name of the place or places where the intoxicating liquors are sold or consumed is truly sticking in the bark and sacrificing substance to form. A saloon is a place devoted to the retailing and drinking intoxicating liquor; and its essential character is not altered by calling it by the high-sounding names contained in the proposed amendment. The places in which all intoxicating liquors may be freely sold and consumed, if the proposed amendment is adopted, are so varied, diversified and numerous that it would amount to no restriction worthy of the name, and could only have been designed to again fool the people, as the liquor forces have been prone to do at all times and under all circumstances.

Ostensibly, the proliquor gentlemen not only wish to be entrenched by constitutional guarantee, but to embody within that organic law the details of a liquor regulatory ordinance. And to think that the draftsman of the proposed amendment is a

lawyer and we celebrated Constitution Day on September 17, 1934!

In common with the section sought to be amended, the right of local option is prohibited, and the control of the liquor traffic is vested exclusively in the State, or in such agencies as it may create. This is a denial of a long cherished and inalienable right in dealing with an age-long evil, and the voters should not by the adoption of the proposed amendment approve again the principle of State control.

Against(au) Nathan Newby |t Los Angeles, California

Text of Prop. Sufficient qualified electors of the State of California have presented to the Secretary of State a petition and request that the proposed amendment to the Constitution hereinafter set forth be submitted to the people of the State of California for their approval or rejection at the next ensuing general election. The proposed amendment to the Constitution is as follows:

(This proposed amendment expressly amends an existing section of the Constitution; therefore, EXISTING PROVISIONS proposed to be DELETED are printed in STRIKE-OUT TYPE; and NEW PROVISIONS proposed to be INSERTED are printed in BLACK-FACED[BOLD] TYPE.)

PROPOSED AMENDMENT TO THE CONSTITUTION.

Article XX, Section 22, of the Constitution of the State of California is hereby amended to read as follows:

~~Sec. 22. In the event of the repeal of the State Prohibition Enforcement Law, commonly known as the Wright Act, and if and when it shall become lawful under the Constitution and laws of the United States to manufacture, sell, purchase, possess or transport intoxicating liquor for beverage purposes within the United States, the State of California, subject to the internal revenue laws of the United States, shall have the exclusive right and power to control, license and regulate the manufacture, sale, purchase, possession, transportation and disposition of intoxicating liquor within the state, and subject to the laws of the United States regulating commerce between foreign nations and among the states, shall have the exclusive right and power to control and regulate the importation from the state of intoxicating liquor; provided, however, no public saloon, public bar or barroom or other public drinking place where intoxicating liquors to be used for any purpose shall be kept, bought, sold, consumed or otherwise disposed of, shall ever be established, maintained or operated within the state; provided, further, subject to the above provisions, that in hotels, boarding houses, restaurants, cafes, cafeterias and other public eating places, wines and beer may be served and consumed with meals furnished in good faith to the guests and patrons thereof, and the legislature may authorize, subject to reasonable restriction, the sale in retail of stores of liquor contained in original packages, where such liquor is not to be consumed on the premises where sold.~~

Sec. 22. The State of California, subject to the Internal Revenue Laws of the United States, shall have the exclusive right and power to license and regulate the manufacture, sale, purchase, possession and transportation of intoxicating liquor within the State, and subject to the laws of the United States regulating commerce between foreign nations and among the States shall have the exclusive right and power to regulate the importation into and exportation from the State, of

intoxicating liquor. Intoxicating liquors, other than beers, shall not be consumed, bought, sold, or otherwise disposed of in any public saloon, public bar or public barroom within the State; provided, however, that subject to the aforesaid restriction, all intoxicating liquors may be kept and may be bought, sold, served, consumed, and otherwise disposed of in any bona fide hotel, restaurant, cafe, cafeteria, railroad dining or club car, passenger ship, or any other public eating places, or in any bona fide club after such club has been lawfully operated for not less than one year. The State Board of Equalization shall have the exclusive power to license the manufacture, importation and sale of intoxicating liquors in this State, and to collect license fees or occupation taxes on account thereof and shall have the power, in its discretion, to deny or revoke any specific liquor license if it shall determine for good cause that the granting or continuance of such license would be contrary to public welfare or morals. It shall be unlawful for any person other than a licensee of said board to manufacture, import or sell intoxicating liquors in this State. Until the Legislature shall otherwise provide, the privilege of keeping, buying, selling, serving, and otherwise disposing of intoxicating liquors in bona fide hotels, restaurants, cafes, cafeterias, railroad dining or club cars, passenger ships, and other public eating places, and in bona fide clubs after such clubs have been lawfully operated for not less than one year, and the privilege of keeping, buying, selling, serving, and otherwise disposing of beers on any premises open to the general public shall be licensed and regulated under the applicable provisions of the so-called State Liquor Control Act, California Statutes 1933, Chapter 658, in so far as the same are not inconsistent with the provisions hereof, and excepting that the license fee to be charged bona fide hotels, restaurants, cafes, cafeterias, railroad dining or club cars, passenger ships, and other public eating places, and any bona fide clubs after such clubs have been lawfully operated for not less than one year, for the privilege of keeping, buying, selling, or otherwise disposing of intoxicating liquors other than beers and wines, shall be $250.00 per year, or $62.50 per quarter-annum for seasonal businesses, subject to the power of the State Board of Equalization to change such fees.

The Legislature may authorize, subject to reasonable restrictions, the sale in retail stores of liquor contained in the original packages, where such liquor is not to be consumed on the premises where sold.

The Legislature shall provide for apportioning the amounts collected for license fees or occupation taxes under the provisions hereof between the State and the cities, counties and cities and counties of the State, in such manner as the Legislature may deem proper.

All constitutional provisions and laws inconsistent with the provisions hereof are hereby repealed.

CODE Amended Cal. Const. art. XX, section 22.

Case Hammond v. McDonald. 49 Cal. App. 2d 671 (1942).

Full Text

Record: 283

Proposition #	**4**
Title	**ATTORNEY GENERAL**
Year/Election	**1934** general
Proposition type	initiative
Popular vote	Yes: 1,063,290 (70.3%); No: 449,075 (29.7%)
Pass/Fail	Pass
Summary	Declares Attorney General, State's chief law officer, shall see all State laws enforced, directly supervise district attorneys, sheriffs and other enforcement officers designated by law, and require from them written reports concerning criminal matters. Empowers him to prosecute, with district attorney's powers, violations within superior court's jurisdiction; assist district attorneys when public interest or Governor requires, and perform other duties prescribed by law; Governor and Controller allowing his necessary expenses from general fund. Makes his salary same as Supreme Court Associate Justice, prohibiting him from private practice, and requiring his entire time in State service.

For

Argument in Favor of Initiative Proposition No. 4

To convict criminals we must first catch them. The vast majority of felonies committed in this country go down into history as unsolved crimes. Even when we know who the criminals are it is not only difficult but often impossible to arrest them, and the manner in which the Dillingers, the "Baby Face" Nelsons, the Machine Gun Kellys, the Tuohys and numerous other criminal gangs have been playing hide and seek with the public authorities has truly became a National disgrace.

This is not the fault of any one agency or of any one State. The fault lies largely in the lack of organization of our law enforcement agencies. We are operating under a system of law enforcement which was established centuries ago when our population was small, our colonies separated by wilderness, when there were no repeating firearms and when the fastest mode of transportation was the horse and buggy. That system which gave to every county, city and town the right to regulate its own police affairs without supervision or interference from anyone could function efficiently in the simple society that existed in those days, but in our present complex society of one hundred and twenty-five million people, geared up as it is with railroad trains, automobiles, airplanes, machine guns and automatic pistols, that system has become inadequate.

The law enforcement business of California is a gigantic business costing the people of the State thirty million dollars a year, and it is being run in a most

unbusinesslike manner. There are in this State 276 incorporated cities and 58 counties, each of which is handling its law enforcement work in its own way without supervision. Any private business operated in this manner could result in but one thing -- bankruptcy.

The amendment makes possible the coordination of county law enforcement agencies and provides the necessary supervision to insure that result. Without curtailing the right of local self government and without creating any new commission to accomplish this purpose, it merely enlarges the duties of the Attorney General so as to give him that supervision and make him responsible for the uniform and adequate enforcement of law throughout the State. In short, the Attorney General is made the supervisor and coordinator for our county law enforcement agencies. He is required to devote his entire time to the duties of his office and his salary is fixed at that of an Associate Justice of the Supreme Court.

The adoption of this amendment will make possible the organization of our law enforcement agencies which is so sadly lacking at the present time. Such a result is not only advisable but is positively necessary if the law is to be adequately enforced and life and property protected. We can not hope to successfully fight organized crime unless our law enforcement agencies are soundly organized and their activities coordinated.

VOTE YES ON NUMBER FOUR.

FOR(au) Earl Warren |t District Attorney of Alameda County and Secretary of the District Attorneys' Association of California, Oakland

FOR(au) W. C. Rhodes |t Sheriff of Madera County, Madera

Text of Prop. Sufficient qualified electors of the State of California have presented to the Secretary of State a petition and request that the proposed amendment to the Constitution, by adding section 21 to Article V thereof, hereinafter set forth, be submitted to the people of the State of California for their approval or rejection at the next ensuing general election. The proposed amendment to the Constitution is as follows:

(This proposed amendment does not expressly amend any existing section of the Constitution, but adds a new section thereto; therefore, the provisions thereof are printed in BLACK- FACED[BOLD] TYPE to indicate that they are NEW.)

PROPOSED AMENDMENT TO THE CONSTITUTION.

Sec. 21. Subject to the powers and duties of the Governor vested in him by Article V of the Constitution, the Attorney General shall be the chief law officer of the State and it shall be his duty to see that the laws of the State of California are uniformly and adequately enforced in every county of the State. He shall have direct supervision over every district attorney and sheriff and over such other law enforcement officers as may be designated by law, in all matters pertaining to the duties of their respective offices, and may require any of said officers to make to him such written reports concerning the investigation, detection, prosecution and punishment of crime in their respective jurisdictions as to him may seem advisable. Whenever in the opinion of the Attorney General any law of the State is not being adequately enforced in any county, it shall be the duty of the Attorney General to prosecute any violations of law of which the superior court shall have jurisdiction,

and in such cases he shall have all the powers of a district attorney in the discharge of his duties. In addition to appropriations made by law for the use of the Attorney General, the Governor and the Controller may in writing authorize the setting aside and the payment in accordance with law, from moneys in the State treasury not otherwise appropriated, of such sums as they consider proper for the necessary expenses of the Attorney General in performing the duties imposed by this paragraph.

He shall also have such powers and perform such duties as are or may be prescribed by law for an associate justice of the Supreme Court, and he shall not engage in the private practice of law, nor shall he be associated directly or indirectly with any attorney in private practice; and he shall devote his entire time to the service of the State.

All provisions of this section shall be self-executing, but legislation may be enacted to facilitate their operation.

CODE Added Cal. Const. art. V, section 21.

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Record: 284

Proposition #	**5**
Title	**PERMITTING COMMENT ON EVIDENCE AND FAILURE OF DEFENDANT TO TESTIFY IN CRIMINAL CASES**
Year/Election	**1934** general
Proposition type	initiative
Popular vote	Yes: 1,087,932 (72.8%); No: 406,287 (27.2%)
Pass/Fail	Pass
Summary	Amends section 13 of Article I, and section 19 of Article VI, of Constitution. Declares in any criminal case, whether defendant testifies or not, court and counsel may comment on his failure to explain or deny any evidence against him. Declares court may instruct jury regarding law applicable to facts of case, and comment on evidence, testimony and credibility of any witness. Requires court inform jury in all cases that jurors are exclusive judges of all questions of fact submitted to them and of credibility of witnesses.

For

Argument in Favor of Initiative Proposition No. 5

This measure is designed and will have the effect of making more certain the conviction of the guilty.

As the law now stands, neither the judge nor the district attorney has the right to comment to the jury on the failure of the accused to testify denying the offense charged. An exconvict will seldom take the stand, since there is no way in which the jury can learn that he is an ex-convict, unless he voluntarily offers himself as a witness. Many mistrials occur where the evidence of guilt is clear because some sympathetic juror, not knowing that the defendant is an ex-convict will persist in voting not guilty, thinking it is the accused's first offense.

This measure also enables the trial judge to comment to the jury on the facts of the case; to give the jurors his analysis of the evidence and to express his opinion on the merits of the case, but informing them at the same time, that his views are advisory only, and that the jury is the final and sole judge of the facts and of the guilt or innocence of the accused.

This is the practice in the courts of Great Britain and Canada, and also in our United States courts.

The reason why this measure should be adopted is, that it often happens when the

jury has just listened to high powered speeches and emotional appeals of the lawyers, they are mentally confused and uncertain as to what they should do; they would welcome an impartial analysis of the case by the judge; it would help them to arrive at a just verdict.

This measure has been approved by the American Legion of California, Executive Board of the California Federation of Women's Clubs, League of Women Voters of California, Committee on Administration of Justice of the State Bar of California, and many other civic and patriotic organizations of our State.

FOR(au) Arthur S. Bent |t President, Bent Bros., Inc., Los Angeles

FOR(au) S. G. Tompkins |t Attorney-at-Law, San Jose

Text of Prop. Sufficient qualified electors of the State of California have presented to the Secretary of State a petition and request that the proposed amendment to the Constitution hereinafter set forth be submitted to the people of the State of California for their approval or rejection at the next ensuing general election. The proposed amendment to the Constitution is as follows:

(This proposed amendment expressly amends existing sections of the Constitution; therefore, EXISTING PROVISIONS proposed to be DELETED are printed in STRIKE-OUT TYPE; and NEW PROVISIONS proposed to be INSERTED are printed in BLACK-FACED[BOLD] TYPE.)

PROPOSED AMENDMENT TO THE CONSTITUTION.

Amendment of section 13 of Article I:

Sec. 13. In criminal prosecutions, in any court whatever, the party accused shall have the right to a speedy and public trial; to have the process of the court to compel the attendance of witnesses in his behalf, and to appear and defend, in person and with counsel. No person shall be twice put in jeopardy for the same offense; nor be compelled in any criminal case, to be a witness against himself; nor be deprived of life, liberty, or property without due process of law; **but in any criminal case, whether the defendant testifies or not, his failure to explain or to deny by his testimony any evidence or facts in the case against him may be commented upon by the court and by counsel, and may be considered by the court or the jury.** The Legislature shall have power to provide for the taking, in the presence of the party accused and his counsel, of depositions of witnesses in criminal cases, other than cases of homicide, when there is reason to believe that the witness, from inability or other cause, will not attend at the trial.

Amendment of section 19 of Article VI:

Sec. 19. Judges shall not charge juries with respect to matters of fact, but may state the testimony and declare the law. **The court may instruct the instruct the jury regarding the law applicable to the facts of the case, and may make such comment on the evidence and the testimony and credibility of any witness as in its opinion is necessary for the proper determination of the case. The court shall inform the jury in all cases that the jurors are the exclusive judges of all questions of fact submitted to them and of the credibility of the witnesses.**

CODE Amended Cal. Const. art. I, section 13. Amended Cal. Const. art. VI, section 19.

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Full Text

Record: 285

Proposition # 6

Title **PLEADING GUILTY BEFORE COMMITTING MAGISTRATE**

Year/Election **1934** general

Proposition type initiative

Popular vote Yes: 1,173,838 (78.7%); No: 317,090 (21.3%)

Pass/Fail Pass

Summary Requires defendant, charged with felony, be immediately taken before magistrate of court where sworn complaint was filed, who shall deliver him copy thereof and allow him time to procure counsel; if such felony is not punishable with death, magistrate and district attorney consenting thereto and defendant's counsel being present, defendant may plead guilty to offense charged or any offense included therein; thereupon magistrate shall commit defendant to sheriff and certify the case to superior court where proceedings shall be had as if defendant had pleaded guilty in such court.

For **Argument in Favor of Initiative Proposition No. 6**

The purposes of the amendment permitting the defendant to plead as to his guilt before the committing magistrate are:

To save the expense of the preliminary examination;

To shorten the time required to complete cases where the defendant desires to plead guilty;

To do away with the temptation to put pressure on accused persons to induce pleas of guilty;

To save the time of prosecutors, witnesses and jurors in cases where the defendant desires to confess his guilt;

To save the enormous expense involved in the conduct and reporting of preliminary examinations.

Much of the expense involved in the administration of justice is caused by cumbersome delays in court procedure which are unavoidable under the present law.

At the present time a defendant charged with a felony is first brought before a police magistrate or justice court for arraignment. By law he can not plead guilty at this

arraignment. Frequently a period of two months then elapses before the accused reaches the superior court where he is permitted to plead guilty.

During this procedure there are innumerable items of expense, chargeable to the fact that the accused is not permitted by law to plead guilty when he is first brought into court before the committing magistrate.

This proposal would amend the present law so as to permit the accused to plead guilty, unless the felony is punishable by death, when he is first brought before the police magistrate, if he is represented by counsel. Under such circumstances he would then be certified immediately to the superior court for sentence and his entire case would be disposed of within five days.

FOR(au) William A. Beasly |t Chairman, Subcommittee on the Administration of Criminal Justice, State Bar of California, San Francisco

FOR(au) Agnes L. McEuen |t State Chairman of Legislation, California Federation of Women's Clubs, Riverside

Text of Prop. Sufficient qualified electors of the State of California have presented to the Secretary of State a petition and request that the proposed amendment of section 8 of Article I of the Constitution hereinafter set forth be submitted to the people of the State of California for their approval or rejection at the next ensuing general election. The proposed amendment to the Constitution is as follows:

(This proposed amendment expressly amends an existing section of the Constitution; therefore, NEW PROVISIONS proposed to be INSERTED are printed in BLACK-FACED[BOLD] TYPE.)

PROPOSED AMENDMENT TO THE CONSTITUTION.

Sec. 8. Offenses heretofore required to be prosecuted by indictment shall be prosecuted by information, after examination and commitment by a magistrate, or by indictment, with or without such examination and commitment, as may be prescribed by law. **When a defendant is charged with the commission of a felony, by a written complaint subscribed under oath and on file in a court within the county in which the felony is triable, he shall, without unnecessary delay, be taken before a magistrate of such court. The magistrate shall immediately deliver to him a copy of the complaint, inform him of his right to the aid of counsel, ask him if he desires the aid of counsel, and allow him a reasonable time to send for counsel; and the magistrate must, upon the request of the defendant, require a peace-officer to take a message to any counsel whom the defendant may name, in the city or township in which the court is situated. If the felony charged is not punishable with death, the magistrate shall immediately upon the appearance of counsel for the defendant read the complaint to the defendant and ask him whether he pleads guilty or not guilty to the offense charged therein; thereupon, or at any time thereafter while the charge remains pending before the magistrate and when his counsel is present, the defendant may, with the consent of the magistrate and the district attorney or other counsel for the people, plead guilty to the offense charged or to any other offense the commission of which is necessarily included in that which with he is charged, or to an attempt to commit the offense charged; and upon such plea of guilty, the magistrate shall immediately commit the defendant to the sheriff and certify the case, including a copy of all proceedings therein and such testimony as**

in his discretion he may require to be taken, to the superior court, and thereupon such proceedings shall be had as if such defendant had pleaded guilty in such court.

The foregoing provisions of this section shall be self- executing. The Legislature may prescribe such procedure in cases herein provided for as is not inconsistent herewith. In cases not hereinabove provided for, such proceedings shall be had as are now or may be hereafter prescribed by law, not inconsistent herewith.

A grand jury shall be drawn and summoned at least once a year in each county.

CODE Amended Cal. Const. art. I, section 8.

Full Text

Record: 391

Proposition #	**9**
Title	**FUNDS FOR ELEMENTARY SCHOOLS**
Year/Election	**1944** general
Proposition type	initiative
Popular vote	Yes: 1,753,818 (63.8%); No: 996,808 (36.2%)
Pass/Fail	Pass
Summary	Amends Constitution, section 15 of Article XIII, to increase the amount of revenue required to be raised and apportioned by the Legislature for public elementary schools from one hundred per cent to one hundred and sixty-six and two-thirds per cent of the entire amount otherwise required to be raised by counties for the support of public day and evening elementary schools. Leaves unchanged the amount to be raised and apportioned for public day and evening secondary and technical schools. Amendment effective from June 30, 1945.

For

Argument in Favor of Initiative Proposition No. 9

California is faced with a serious breakdown in its elementary school system, due to inadequate State support, an acute teacher shortage, a vast increase in population, and the inability of many local school districts to provide additional funds.

CLASSROOMS WITHOUT TEACHERS are inevitable in many districts -- and CLOSED SCHOOLS in others -- unless increased State support is made available. Already, in hundreds of districts, children in the lower grades are being herded instead of educated -- in classes of 40 to 60 pupils, where 30 to 35 should be the maximum for proper instruction.

Underlying causes of the crisis are these:

1. INADEQUATE STATE SUPPORT FOR ELEMENTARY SCHOOLS. The present rate of contribution -- $60 per pupil, per year -- was established in 1920, and despite generally advancing costs, it has not been increased in 24 years. (An "emergency" allocation of $6 extra per child was made in 1943, but will terminate on next July 1.)

2. ACUTE TEACHER SHORTAGE. Beginning two years before Pearl Harbor, the dwindling enrollment in teacher-training institutions has dropped 63 per cent, as our young people continue to shun the teaching profession. Teaching has become one of our poorest paid professions, with the minimum salary $1,320 a year in normal times and

$1,500 for the war emergency. New teachers simply can not be obtained.

3. AN INCREASE OF 1,500,000 IN THE STATE'S POPULATION. Although these new residents have sharply increased the school load, the majority -- not yet home-owning property taxpayers -- can contribute to support of their children in the schools ONLY THROUGH STATE TAXES. Official State surveys indicate the majority will remain here after the war, but it will be years before many become local district taxpayers. They do, however, pay State sales and income taxes, and it is therefore vital that the State carry a fair share of school costs.

4. TAX-POOR SCHOOL DISTRICTS. School children in hundreds of tax-poor districts in California -- where as much as 50 per cent of the taxable property has been taken from the tax rolls by Government purchase -- have been condemned to substandard education by the inability of local taxpayers to provide necessary school funds. While support of the public schools is declared a State responsibility in the Constitution, 56.9 per cent of school costs today are being borne by local district taxpayers, and only 43.1 per cent by the State.

THE SOLUTION offered by Proposition 9 is both fair and practical. This proposition would increase the State's share of school support from $60 per child per year, to $80. It would transfer a greater portion of school costs from harassed local taxpayers to the State. It would permit tax-poor districts, now threatened with CLOSED SCHOOLS, due to lack of teachers, to pay adequate salaries and thereby supplement their teaching personnel. It would enable the 1,500,000 new residents in California to pay a fair proportion of the cost of educating their children -- and thereby insure their children of decent educational facilities.

TO SAVE OUR SCHOOLS, vote "YES" on Proposition No. 9.

FOR(au) Charles Albert Adams |t San Francisco.

FOR(au) John F. Brady |t President, State Council of Education.

FOR(au) Arthur W. Brouillet |t San Francisco.

FOR(au) Dorothy D. Decker |t Santa Ana, President, California Federation of Business and Professional Women's Clubs, Inc.

FOR(au) Dr. Walter F. Dexter |t State Superintendent of Public Instruction.

FOR(au) George A. Duddy |t San Francisco, State Secretary, California State Aerie, Fraternal Order of Eagles.

FOR(au) McIntyre Faries |t Los Angeles.

FOR(au) Mrs. John J. Garland |t Menlo Park, President, California Congress of Parents and Teachers.

FOR(au) C. J. Haggerty |t Secretary-Treasurer, California State Federation of Labor.

FOR(au) Mrs. Alfred J. Mathebat |t Alameda, Past National Commander, American Legion Auxiliary.

Against **Argument Against Initiative Proposition No. 9**

DO YOU KNOW THAT:

1. The State of California is spending over $200,000,000 each year for education in the public schools?

2. The State of California furnishes free to the school districts all necessary textbooks?

3. California spends more per pupil than any other State in the Union?

4. Not one elementary school has closed because of lack of money?

5. California has the highest minimum salary for teachers of any State in the Union?

6. Eleven and seven-tenths per-cent of the elementary districts in California levy no local property tax?

7. If this proposition is adopted, it will freeze into the Constitution an additional minimum expenditure of $15,000,000 per year?

8. If this proposition is adopted, the Legislature will have no power to change it regardless of economic conditions or need?

9. There is no provision in this program to reduce your local property tax, notwithstanding arguments to the contrary?

10. The Legislature will undoubtedly have to increase the sales tax to obtain sufficient revenue, if this proposition is adopted?

11. The Legislature had this same matter under consideration in 1943 and, after careful study, decided against the proposal?

12. Although the 1943 Legislature turned down the $14,000,000 requested that year, it did provide $4,500,000 additional?

13. In 1944, the school authorities asked the Legislature for only $4,500,000 additional for one year, which was granted, and not $15,000,000?

14. This act does not take effect until July 1, 1945?

15. The war may be over long before that date?

16. The elementary schools had on hand June 30, 1943, unexpended balances of $18,664,564?

17. None of the money provided for in this proposition may be used for the benefit of veterans, or high school or junior college students?

18. Prior to the war, there was a surplus of teachers?

19. You can expect the same condition shortly after the end of the war?

20. If you vote "Yes" on this measure, you are voting to spend your own money as

well as that of your neighbors?

21. This is not an equalization fund?

22. The Governor's Commission on Reconstruction and Reemployment has secured the services of Dr. George D. Strayer, outstanding American expert on school administration and finance, to determine the amount of money needed for schools in California?

23. His findings will be submitted to the next regular session of the Legislature?

24. Many parents and teachers feel no action should be taken until after Dr. Strayer's report is submitted?

25. The teachers of California schools have been requested to contribute $5.00 each toward a campaign fund?

26. If the 52,000 teachers follow this request for a contribution, there will be over a quarter of a million dollars available to buy newspaper, radio, and billboard advertising space to influence your vote in favor of this proposition?

27. It has been recommended to those who oppose this measure that they do not spend any money to influence your vote but rather invest their money in United States War Bonds?

28. When in doubt as to changing the Constitution, it is always safer to vote "NO"?

Respectfully submitted for your consideration.

Against(au) Lee T. Bashore |t Assemblyman, Forty-ninth District, Glendora. Chairman, Committee on Revenue and Taxation, California State Legislature.

Text of Prop. Sufficient qualified electors of the State of California have presented to the Secretary of State a petition and request that the proposed amendment to the Constitution hereinafter set forth be submitted to the people of the State of California for their approval or rejection at the next ensuing general election or as provided by law. The proposed amendment to the Constitution is as follows:

(This proposed amendment expressly amends an existing section of the Constitution; therefore, **EXISTING PROVISIONS** proposed to be **DELETED** are printed in **STRIKE-OUT TYPE**; and **NEW PROVISIONS** proposed to be **INSERTED** are printed in **BLACK-FACED[BOLD] TYPE**.)

PROPOSED AMENDMENT TO THE CONSTITUTION.

Section 15 of Article XIII of the Constitution of the State of California is hereby amended to read as follows:

Section 15. Out of the revenue from State taxes for which provision is made in this article, together with all other State revenues, there shall first be set apart the moneys to be applied by the State to the support of the public school system and the State

university. The Legislature shall provide for the raising of revenue by any form of taxation not prohibited by this Constitution in amounts sufficient to meet the expenditures of this State not otherwise provided for and in amounts sufficient to **apportion, and shall apportion, to each county or city and county of this State an amount equal to one hundred and sixty-six and two-thirds per cent of** the entire amount required to be raised by each such county or city and county respectively under the provisions of Section 6 of Article IX of this Constitution **for the support of the public day and evening elementary schools of the county or city and county and in addition, the entire amount required to be raised by each such county or city and county respectively under the provisions of Section 6 of Article IX of this Constitution for the support of the public day and evening secondary and technical schools of the county or city and county**; provided, however, that all sums so apportioned shall be considered as though derived from county and city and county school taxes for the support of county and city and county government and not money provided by the State within the meaning of said section, nor shall any revenues so apportioned by regarded as appropriations from the funds of the State within the meaning of Section 34a of Article IV of this Constitution; **and provided, further, that the provisions of this sentence as they read on May 1, 1944 shall remain operative to and including June 30, 1945 and no longer notwithstanding any other provision of this Constitution to the contrary.**

If the Legislature limits the amount of revenue which may be raised from taxes upon the real and personal property according to the value thereof in pursuance of its power so to do under Section 20 of Article XI of this Constitution, then the Legislature shall provide for the raising of revenue by any form of taxation not prohibited by this Constitution in amounts sufficient to apportion and shall apportion to each county and city and county an amount equal to the deficiency in the revenues thereof resulting from such limitation, as such deficiency shall be determined by law; provided, however, that no tax shall be levied by the Legislature in pursuance of this section upon property in proportion to the value thereof in excess of the limitation for which provision is made in Section 34a of Article IV of this Constitution with reference to taxes for State purposes on real and personal property and further provided that no taxes upon property in proportion to the value thereof shall be levied in pursuance of this section for the support of any county or city and county government.

No injunction or writ of mandate or other legal or equitable process shall ever issue in any suit, action or proceeding in any court against this State, or any officer thereof, to prevent or enjoin the collection of any tax levied under the provisions of this article; but after payment thereof action may be maintained to recover, with interest, in such manner as may be provided by law, any tax claimed to have been illegally collected.

CODE Amended Cal. Const. art XIII, section 15.

Full Text

Record: 403

Proposition #	3
Title	PUBLIC SCHOOLS
Year/Election	**1946** general
Proposition type	initiative
Popular vote	Yes: 1,772,370 (74.4%); No: 610,967 (25.6%)
Pass/Fail	Pass
Summary	Amends same sections of Constitution and simplifies allocation of school funds in same manner as Proposition No. 13. Establishes minimum salary of twenty-four hundred dollars per year for teachers. Increases State support for public schools to one hundred and twenty dollars per year for each pupil in average daily attendance, ninety dollars of which shall be given to local school districts. Authorizes local authorities to determine amount of money to be raised by school district taxes. Prohibits transfer of any school or college to any authority not under the Public School System.

For

Argument in Favor of Initiative Proposition No. 3

California's population, swollen by the greatest migration in American history, has jumped more than 2,000,000 during the past six years -- and is still increasing.

A million babies have been born in California during the same six-year span -- and birth rates are still soaring.

As a result of these skyrocketing increases in population and births -- and a dangerously dwindling teacher supply -- California's Public School System is confronted with the most serious crisis in its history.

Proposition 3 is designed to cope with that crisis, to avert a breakdown in our Public School System -- and to safeguard the educational future of California's children.

Seeking to assure an adequate supply of teachers, and to enable the schools to expand their facilities and meet their greatly increased overhead, this proposition provides:

1. That every full-time teacher in California shall be paid a minimum salary of $2,400 per year.

2. That State support of the public schools shall be at the rate of $120 a year for every pupil in average daily attendance.

The acute teacher shortage which now exists clearly demonstrates the urgent, imperative need of an adequate salary guarantee which will give young people an incentive to enter the teaching profession. Thousands of additional teachers are desperately needed; yet the number of candidates for teaching credentials in California teacher-training institutions has dropped to about one-third of the prewar average.

California schools have been kept open only by calling thousands of retired teachers back into service and by lowering the qualifications for teaching credentials during the emergency. Even with these extreme measures, children are being herded into classes crowded far beyond the capacity for proper instruction. And there are more than 1,000 classrooms in which teachers and classroom facilities are doing "double duty," with one group of children reporting for school on an early shift -- and a second group occupying the same desks on a swing shift.

The crisis is real and unmistakable.

Enrollment in California's elementary schools, already sharply increased, will be doubled within the next eight years -- and if California children are not to be denied their birthright, the number of teachers must be doubled also. The problem in high schools and junior colleges is almost equally acute, with tens of thousands of war veterans returning to complete their education.

California must recruit 40,000 additional teachers during the next eight years -- 5,000 new teachers every year! -- if educational standards are to be maintained and children are to be properly trained. That challenge can only be met if Proposition 3 is enacted.

This is not a partisan issue. The slogan -- "Both Parties Agree on Amendment 3" -- is based on the action of both the Democratic and Republican State Conventions in giving this measure unanimous endorsement. Proposition 3 has been endorsed by the California Congress of Parents and Teachers, by veterans' organizations, all branches of Organized Labor, farm groups, and scores of business, civic and fraternal organizations.

Safeguard the birthright of your children!

Vote "*Yes*" on Proposition 3!

FOR(au) Roy W. Cloud |t State Secretary, California Teachers Association
FOR(au) Mrs. Rollin Brown |t State President, California Congress of Parents and Teachers
FOR(au) Roy E. Simpson |t State Superintendent of Public Instruction
FOR(au) Thomas J. Riordan |t Past State Commander, American Legion
Against **Argument Against Initiative Proposition No. 3**

In candor it should be admitted that the reason why Proposition No. 3 appears on the ballot is that California citizens generally have not taken the active interest in public education which should be manifested in a Democracy. It is unfortunately true that teachers' salaries have been far too low, that they are too low today in this period of inflation, that school districts have in many cases reached the limit of their taxing power, that many vital functions of a modern educational program have of necessity

been eliminated because of lack of funds. As Californians we should with a real sense of shame admit that public indifference, neglect, and ignorance have all contributed to make the task of teachers and school administrators tremendously difficult.

We may admit all of the foregoing, I believe, and yet question the wisdom of incorporating into the Constitution all of the provisions of the proposed amendment.

Teachers obviously should be paid much more than $2,400 per year. But approval of the $2,400 figure does not necessarily mean that such an amount should be guaranteed teachers by a constitutional provision. There is room for an honest difference of opinion on the desirability of riveting into the Constitution a minimum salary for any public employee. Political scientists seem to be generally agreed that such a practice is to be deplored. I would most solemnly warn the voters to ponder seriously the consequences of initiating the practice of guaranteeing the minimum salaries of public employees in the State Constitution. If one group is thus protected, why should not all groups be protected?

I urge that all voters study carefully not only the text of the proposed constitutional amendment but also the text of the present constitutional provisions which the amendment will supplant. A careful study will reveal, I believe, at least five changes of major significance. The language of the proposed constitutional provisions is not always clear. In fact, it accomplishes much more radical innovations than the amendment's proponents admit in their public discussions. One may also question the fairness of including five changes in one constitutional amendment with the design of forcing the voter to approve some change he may object to in order to endorse a change he desires.

Finally, I would suggest that the generous increase in State funds for public education made mandatory by Proposition No. 3 should be accompanied by rigorous requirements of sound educational practice. When the taxpayers of California pay hundreds of millions of dollars per biennium for public education, they have a right to demand that public school graduates be soundly trained in the fundamentals, in American history and ideals, and that school courses and textbooks no longer be the subject of continual experimentation by educational crackpots.

In urging a negative vote on Proposition No. 3 I do so only with the warning that the defeat of No. 3 in itself will solve no problems. We must all take a greater interest in public education.

Against(au) John Harold Swan |t Junior College teacher and attorney at law. Member California State Senate, 1941-1945

Text of Prop. (This proposed amendment expressly amends existing sections of the Constitution; therefore **EXISTING PROVISIONS** proposed to be **DELETED** are printed in ~~STRIKEOUT TYPE,~~ and **NEW PROVISIONS** proposed to be **INSERTED** are printed in **BLACK-FACED[BOLD] TYPE.**)

PROPOSED AMENDMENT TO THE CONSTITUTION

First: Section 6 of Article IX of the Constitution of the State of California is hereby amended to read as follows:

Sec. 6. **Each person, other than a substitute employee, employed by a school district as a teacher or in any other position requiring certification qualifications shall be paid a salary which shall be at the rate of an annual salary of not less than twenty-four hundred dollars ($2,400) for a person serving full time, as defined by law.**

The Public School System shall include **all kindergarten schools,** ~~day and evening~~ elementary schools, ~~and such day and evening~~ secondary schools, technical schools, ~~kindergarten schools and normal schools or teachers colleges,~~ **and State colleges,** ~~as may be~~ established ~~by the Legislature, or by municipal or district authority,~~ **in accordance with law and, in addition, the school districts and the other agencies authorized to maintain them. No school or college or any other part of the Public School System shall be, directly or indirectly, transferred from the Public School System or placed under the jurisdiction of any authority other than one included within the Public School System.**

The Legislature shall add to the State School Fund such other means from the revenues of the State as shall provide in said fund for ~~distribution~~ **apportionment** in each ~~school~~ **fiscal year** ~~in such manner as the Legislature shall provide~~, an amount not less than ~~thirty dollars~~ **one hundred and twenty dollars ($120)** per pupil in average daily attendance in the **kindergarten schools,** ~~day and evening~~ elementary schools, **secondary schools, and technical schools** in the Public School System during the next preceding ~~school~~ **fiscal** year.

The entire State School Fund shall be apportioned in each fiscal year in such manner as the Legislature may provide, through the school districts and other agencies maintaining such schools, for the support of, and aid to, kindergarten schools, elementary schools, secondary schools, and technical schools except that there shall be apportioned to each school district in each fiscal year not less than ninety dollars ($90) per pupil in average daily attendance in the district during the next preceding fiscal year and except that the amount apportioned to each school district in each fiscal year shall be not less than twenty-four hundred dollars ($2,400).

Solely with respect to any retirement system provided for in the charter of any county or city and county pursuant to the provisions of which the contributions of, and benefits to, certificated employees of a school district who are members of such system are based upon the proportion of the salaries of such certificated employees contributed by said county or city and county, all amounts apportioned to said county or city and county, or to school districts therein, pursuant to the provisions of this section shall be considered as though derived from county or city and county school taxes for the support of county and city and county government and not money provided by the State within the meaning of this section.

~~The Legislature shall provide a State High School Fund from the revenues of the State for the support of day and evening secondary and technical schools, which for each school year, shall provide for distribution in such manner as the Legislature shall provide an amount not less than thirty dollars per pupil in average daily attendance in the day and evening secondary and technical schools in the public school system during the next preceding school year.~~

The Legislature shall provide for the levying of a county and city and county, elementary school tax, by the board of supervisors of each county, and city and county, sufficient in amount to produce a sum of money not less than the amount of money to be received during the current school year from the State for the support of the public day and evening elementary schools of the county, or city and county; provided that said elementary school tax levied by any board of supervisors shall produce not less than thirty dollars per pupil in average daily attendance in the public day and evening elementary schools of the county, or city and county, during the next preceding school year.

The Legislature shall provide for the levying of a county, and city and county, high school tax by the board of supervisors of each county, and city and county sufficient in amount to produce a sum of money not less than twice the amount of money to be received during the current school year from the State for the support of the public day and evening secondary and technical schools of the county, or city and county; provided that the high school tax levied by the board of supervisors shall produce not less than sixty dollars per pupil in average daily attendance in the public day and evening secondary schools of the county, or city and county, during the next preceding school year.

The Legislature shall provide for the levying **annual by the governing body of each county, and city and county**, of **such** school district taxes ~~by the board of supervisors of each county, and city and county~~, **at rates not in excess of the maximum rates of school district tax fixed or authorized by the Legislature, as will produce in each fiscal year such revenue for each school district as the governing board thereof shall determine is required in such fiscal year** for the support of ~~public elementary schools, secondary schools, technical schools, and kindergarten schools, or for any other public school purpose authorized by the Legislature~~ **all schools and functions of said district authorized or required by law.**

~~The entire amount of money provided by the State, and not less than sixty percent of the amount of money provided by county, or city and county, school taxes shall be applied exclusively to the payment of public school teachers' salaries.~~

The revenues provided for the public school system for the school year ending June 30, 1921, shall not be affected by this amendment except as the Legislature may provide.

The provisions of this section as they read on April 1, 1946, shall remain operative to and including June 30, 1947, and no longer, notwithstanding any provision of this Constitution to the contrary.

Second: Section 15 of Article XIII of the Constitution of the State of California is hereby amended to read as follows:

Sec. 15. Out of the revenue from State taxes for which provision is made in this article, together with all other State revenues, there shall first be set apart the moneys to be applied by the State to the support of the Public School System and the State University.

~~The Legislature shall provide for the raising of revenue by any form of taxation not prohibited by this Constitution in amount sufficient to meet the expenditures of this State not otherwise provided for and in amounts sufficient to apportion, and shall apportion, to each county or city and county of this State an amount equal to 166 2/3 per cent of the entire amount required to be raised by each such county or city and county respectively under the provisions of Section 6 of Article IX of this Constitution for the support of the public day and evening elementary schools of the county or city and county and in addition, the entire amount required to be raised by each such county or city and county respectively under the provisions of Section 6 of Article IX of this Constitution for the support of the public day and evening secondary and technical schools of the county or city and county; provided, however, that all sums so apportioned shall be considered as though derived from county and city and county school taxes for the support of county and city and county government and not money provided by the State within the meaning of said section, nor shall any revenues so apportioned be regarded as appropriations from the funds of the State within the meaning of Section 34a of Article IV of this Constitution; and provided, further, that the provisions of this sentence as they read on May 4, 1944, shall remain operative to and including June 30, 1945, and no longer notwithstanding any other provisions of this Constitution to the contrary.~~

If the Legislature limits the amount of revenue which may be raised from taxes upon the real and personal property according to the value thereof in pursuance of its power so to do under Section 20 of Article XI of this Constitution, then the Legislature shall provide for the raising of revenue by any form of taxation not prohibited by this Constitution in amounts sufficient to apportion and shall apportion to each county and city and county an amount equal to the deficiency in the revenues thereof resulting from such limitation, as such deficiency shall be determined by law; provided, however, that no tax shall be levied by the Legislature in pursuance of this section upon property in proportion to the value thereof in excess of the limitation for which provision is made in section 34a of Article IV of this Constitution for the support of any county or city and county government.

No injunction or writ of mandate or other legal or equitable process shall ever issue in any suit, action or proceeding in any court against this State, or any officer thereof, to prevent or enjoin the collection of any tax levied under the provisions of this article; but after payment thereof action may be maintained to recover, with interest, in such manner as may be provided by law, any tax claimed to have been illegally collected.

The provisions of this section as they read on April 1, 1946, shall remain operative to and including June 30, 1947, and no longer, notwithstanding any provision of this Constitution to the contrary.

CODE Amended Cal. Const. art IX, section 6. Amended Cal. Const. art. XIII, section 15.

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Full Text

Record: 423

Proposition #	4
Title	**AGED AND BLIND AID**
Year/Election	**1948** general
Proposition type	initiative
Popular vote	Yes: 1,837,805 (50.5%); No: 1,800,513 (49.5%)
Pass/Fail	Pass
Summary	Adds Article XXV to Constitution. Increases maximum aid from $60 to $75 monthly for aged persons, and from $75 to $85 monthly for blind persons. Makes continuing appropriations from State Treasury to finance same. Changes eligibility standards; lowers age and residence requirements for aged aid; increases income and property exemptions permitted to recipients of aged and blind aid. Makes Director, Department Social Welfare, elective office; names first director. Places aid program entirely under State administration, eliminating county functions. Prescribes administrative procedures. Creates lien against State Treasury for cost of aid and administration.
For	**Argument in Favor of Initiative Proposition No. 4**

Our Government is showering billions of dollars upon the needy throughout the world with no questions asked and few conditions required.

Meanwhile, our own needy blind and aged are struggling to exist on aid which was inadequate even before inflation. In California, we have 182,925 old age recipients subsisting on an average of only $57 a month; and the 6,988 needy blind on an average of $72 a month, doled out to them. The misery and suffering of these poor unfortunate fellow citizens is deplorable.

The Aged and Blind Aid amendment will raise the aged to $75 a month and the blind to $85. Because of the recent increase voted by Congress for old age and blind assistance to this state, amounting to $11,000,000 a year, the total annual increase under our measure in old age payments would be only $21,951,000; the increase in blind aid would amount to $419,280. Add to these figures $9,000,000 to cover payments to 10,000 new cases who might qualify, and the total increase to the state is only $31,370,280 a year. The high death rate among the aged, keeps the cost of the program at a constant level despite new applicants. There will be approximately a $15,000,000 annual saving to home and property owners which will result from state administration of the program. These actual cost figures are far different from the fantastic estimates of opponents.

An effort has been made to mislead people into believing that oldsters will migrate to California, should aid be increased. The Federal Social Security Administration gives the lie to this propaganda through a survey which proves that oldsters do not move to secure higher pensions.

A humane provision of the Aged and Blind Aid amendment, recommended by the Federal Social Security Agency, is the repeal of the mis-named "Responsible Relatives" clause. The amendment does not prohibit relatives from supporting aged and blind members of their families; it encourages such support. It will eliminate the harassing of recipients whose children cannot or will not contribute to their support.

Making the office of State Welfare Director elective will insure welfare laws being administered justly. This post is now a political appointment, but we believe this office should be responsible to the people.

By voting the Aged and Blind Aid amendment into the State Constitution, California will achieve a permanent solution to its needy aged and blind problem.

In the midst of ministering to the needs of the rest of the world, it is unthinkable that we continue to forget our own poor and under-privileged. Federal statistics prove that 75 out of every 100 persons in the United States are dependent upon some form of public monies when they reach the age of 65. Therefore, few today -- can have any assurance that they will not be in need in case of blindness or old age. Why not help needy Americans for a change?

Vote YES on Proposition Number 4!

FOR(au) George H. McLain |t Chairman Citizens' Committee for Old Age Pensions
FOR(au) Frank E. Gardner |t Chairman Legislative Committee of California Blind
FOR(au) Myrtle Williams |t Secty-Treas. California Institute of Social Welfare
FOR(au) John W. Evans |t Assemblyman, 65th Dist.
FOR(au) Gordon R. Hahn |t Assemblyman, 66th Dist.
Against **Argument Against Initiative Proposition No. 4**

Proposition No. 4 should be defeated for the following main reasons:

1. It freezes into the Constitution, at present inflated levels, the specific amount of aged and blind aid, thus making it impossible to adjust the payments to the changing business cycle and to economic conditions. Proposed payments would be out of line with all other states, and could only be adjusted by direct vote of the people.

2. Old age and blind aid, together with the costs of administration, are made a first lien against all monies in the State Treasury. This means that proposed pension payments and administration costs would have a prior claim on all State monies, including the gas tax and other special funds, ahead of school costs, teachers' salaries, State employees' salaries, State bond retirement, etc.

3. It increases taxes $125,000,000 next year in California -- an average tax increase of $42.00 for every family. Within twelve years, taxes will be increased by

$235,000,000 a year.

4. It threatens to destroy the present system of aid to needy aged and blind in California. Its wide-open provisions will attract to California the aged and blind by the thousands from all over the United States, which would build up such a tremendous pension load in California that the entire system in this State will break down. Out-of-State migrants would thus lead to destruction and loss of present aid now enjoyed by our deserving needy aged and blind.

5. It violates all principles of states' rights by giving authority to Congress or Federal Security Administration in Washington to amend our State Constitution without a vote of our own people.

6. It sets up a large, new State department to administer the act, but at the same time, it does not repeal or do away with any of the present administrative agencies. This results in duplicating costs and increased taxes.

7. It delegates all policy making and operation of aged and blind aid for the next two years to one of three people actually to be named and written into the Constitution and does not provide for the election of a director until 1950. By providing for an *elected* director after 1950, it would expose the rights and benefits of the aged and blind to political maneuvering every four years and make pensions a continuous political football.

8. It exposes the aged and blind to having unlimited fees charged against them by those helping to secure their pensions. Present law prohibits accepting remuneration for helping qualified pensioners secure their benefit payments.

9. It removes several important safeguards the people of California now have against unwarranted increases in the number of people claiming old age assistance.

10. Present California pension laws are known to be in conformity with requirements of the Federal Social Security Law; but if this amendment is found to be out of conformity, California will lose millions of dollars in Federal funds which we must have to finance aged and blind aid.

VOTE *NO* ON PROPOSITION NO. 4

Against(au) Ray B. Wiser |t President, California Farm Bureau Federation

Against(au) Arthur J. Will |t Superintendent of Charities, County of Los Angeles

Against(au) William A. Pixley |t Chairman of the Board, Property Owners Association of California, Inc.

Against(au) James L. Beebe |t Attorney at Law, Los Angeles, California

Text of Prop. (This proposed amendment does not expressly amend any existing section of the Constitution, but adds a new article thereto; therefore, the provisions thereof are printed in **BLACK-FACED[BOLD] TYPE** to indicate that they are **NEW**.)

PROPOSED AMENDMENT TO THE CONSTITUTION

ARTICLE XXV

Old Age Security and Security for the Blind Law

Section 1. The purpose of this article is to increase the amount of old age security to the needy aged of this State from its present maximum of $50 per month to $75 per month, and to increase the security to the needy blind from its present maximum of $75 per month to $85 per month and other provisions designed to improve the applicant's or recipient's way of life.

Increased cost of living has made the present amount of security to the needy aged and blind of this State inadequate, and in order to provide for the protection, care, and assistance to the people of the State in need and to promote the welfare and happiness of all of the people of the State, the increase of assistance to the needy aged and needy blind as provided by this article is necessary.

It is also the purpose of this article that this assistance shall be administered promptly and humanely, with due regard for the preservation of family life, and without discrimination on account of race, religion, or political affiliation; and that assistance shall be so administered as to encourage self respect, self reliance, and the desire to be a good citizen useful to society.

It is the purpose of this article to give security to every aged and blind person eligible under this article and who is needy, according to the provisions laid down by the Federal Government.

This article shall be cited as the Old Age Security and Security for the Blind Law, and all references to same shall be Old Age Security and Security for the Blind.

All security given under this article shall be absolutely inalienable by any assignment, sale, attachment, execution, or otherwise. In case of bankruptcy the security shall not pass through any trustee or other person acting on behalf of creditors.

No officer or employee of the State shall make any demand on any person to contribute to the support of the applicant for, or recipient of, old age security or blind security under this article, or to agree so to contribute or shall threaten any such person with any legal action against him or with any penalty against him whatsoever.

Nothing is this article shall prevent any applicant from exercising any rights to sue for support that he may have under any other provisions of law and security shall not be withheld unless he exercises such rights.

As used in this article, security shall mean any grants provided to an individual under this article.

Sec. 2. The amount of security to which any applicant for old age security shall be entitled shall be, when added to the income (including the value of currently used resources, but excepting casual income and inconsequential resources) of the applicant from all other sources, seventy-five dollars ($75) per month. If, however, in any case it is found the actual need of an applicant exceeds seventy-five dollars ($75) per month, such applicant shall be entitled to receive old age security in an amount, not to exceed seventy-five dollars ($75) per month, which when added to his income (including value

of currently used resources, but excepting casual income and inconsequential resources) from all other sources shall equal his need.

The amount of security to which any applicant for blind security shall be entitled, shall be when added to the income (including the value of currently used resources, but excepting casual income and inconsequential resources) of the applicant from all other sources eighty-five dollars ($85) per month. If, however, in any case it is found the actual need of an applicant exceeds eighty-five dollars ($85) per month, such applicant shall be entitled to receive blind security in an amount not to exceed eighty-five dollars ($85) per month, which when added to his income (including the value of currently used resources, but excepting casual income and inconsequential resources) from all other sources, shall equal his actual need.

Sec. 3. For the purpose of this article, income and earnings of an applicant shall not be deemed income or resources of the applicant and shall not be deducted from the amount of old age security and blind security to which the applicant would otherwise be entitled; except if the net income and earnings exceed $360 annually.

This section shall take effect if, when, and to the extent that the amendments to the Federal statutes or rules and regulations of The Federal Security Administrator take effect, permitting this State to give effect to this section without thereby rendering this State ineligible to receive Federal grants in aid for old age and blind security in this State.

Sec. 4. The Director of the Department of Social Welfare shall prescribe the form of application, the manner and form of all reports, and such additional rules and regulations as are necessary for the carrying out of the provisions of this article, and not inconsistent therewith. The Director of the Department of Social Welfare shall make such reports in such form and containing such information as the Federal Security Administrator may from time to time require, and shall comply with such provisions as the Federal Security Administrator may from time to time find necessary to assure the correctness and verification of such report.

The Director of the Department of Social Welfare shall be elected by the people for a term of fours years beginning in 1950, at a salary of not less than twelve thousand dollars ($12,000) per year, plus the usual necessary expenses.

The Director of the Department of Social Welfare shall administer all of the functions now imposed upon him by law and such other duties as the Legislature may from time to time provide.

The Director of the Department of Social Welfare may appoint, with the consent of the Senate, a committee or board of not to exceed seven (7) members, to aid and assist in the program under his jurisdiction. The committee or board so appointed shall serve at the pleasure of the Director of the Department of Social Welfare. The compensation of the members shall be set by the Legislature.

Members of the committee or board shall receive necessary expenses incurred in the course of their duties

The Director of the Department of Social Welfare shall be empowered to act for the State in any matters required by the Federal Government that have to do with his line of duties.

Until the election of the Director of the Department of Social Welfare in 1950, Mrs. Myrtle Williams, 420 Avondale, Monterey Park, shall be Director; if she declines to act, Assemblyman Gordon R. Hahn, of Los Angeles County, shall be Director; if he declines to act, Assemblyman John W. Evans, of Los Angeles County, shall be the Director.

Sec. 5. Old age security shall be granted under this article to any person who is a citizen of the United States and comes within the description in subdivision a or b and within the description in subdivision c:

(a) Is 65 years of age or over and has been a resident of the State of California for at least five years within the nine years immediately preceding his application for old age security, or

(b) Is 63 years of age or over but has not yet reached his 65th birthday, and has been a resident of the State for at least ten years within the fifteen years immediately preceding his application for old age security.

If and when and during such time as the Federal Government shall provide or make available to this State grants in aid to persons who have attained the age of 60 years, the ages contained in this section shall be reduced to 60 years and those who come within all the descriptions hereinafter contained shall be eligible for old age security under this article.

Unless and until the Federal Government makes available payments to Groups (b), total payments to said Group (b) shall be assumed by the State of California.

The residence requirement in this section shall automatically conform to any changes required by the Federal Government in order to maintain compliance with the Federal Social Security provisions.

(c) Is not, at the time of receiving such security, an inmate of any public home for the aged, or any public home, or any public institution of a custodial, correctional, or curative character, except in the case of temporary medical or surgical care in a public hospital not exceeding two calendar months in duration. Any such inmate, however, may make an application for security under this article and have his application investigated and acted upon without delay, in the same manner as applications of other persons are acted upon while he is such an inmate, and, if he is otherwise qualified under the terms of this article, such application shall be approved. Payment of security granted shall commence within one month following such approval and the applicant may remain an inmate until he receives his first monthly payment whereupon he shall cease to be such inmate. Persons who are inmates of a boarding home or other institution not supported in whole or in part by public funds shall be granted security but no such security shall be granted if such persons are cared for under a contract for a period of time exceeding one month.

Notwithstanding any provision of subdivision (c) of this section to the contrary, security shall be granted to any person who is an inmate of a home or institution maintained by any fraternal, benevolent, or nonprofit organization, if the organization has not been paid for the life care and maintenance of the person through assessment of or of dues of said inmate or otherwise, whether or not the person has agreed or promised to pay for his maintenance in the event that he receives any pension, bequest, devise, or other inheritance.

If on the first day of the month a recipient of security is eligible for security through an inmate of an institution or hospital, he is entitled to receive security for the month. If a recipient of aid becomes ineligible for security due to confinement in an institution or hospital, the order suspending his security may provide that the security shall be restored to him when the recipient ceases to be an inmate without further order from the Director of the Department of Social Welfare.

Sec. 6. No security under this article shall be granted or paid to any person who owns personal property, the value of which, less all encumbrances of record, exceeds fifteen hundred dollars ($1500).

The term personal property shall not include a policy or policies of life insurance on the life of the applicant or recipient which has or have been in effect at least 12 months prior to the date of application if the present surrender value of the policy or policies to the applicant or recipient does not exceed one thousand dollars ($1,000). Premiums paid by others on life insurance policies shall not be deemed income or resources of the applicant or recipient.

For the purposes of this article, the interest of an applicant or recipient in an estate as heir devisee, or legatee shall not be considered property of the applicant or recipient until it has been distributed to him and is available for expenditures or disposition by him; and the interest of a beneficiary of a trust shall not be considered to be property of the beneficiary until it has been made available for expenditure or disposition by him.

For the purposes of this article, the term "personal property" shall not include personal effects of the applicant or recipient. Personal effects include clothing, personal jewelry, furniture, motor vehicle, household equipment, food stuffs and fuel, interment plots as defined in Section 7022 of the Health and Safety Code, or insurance for funeral or interment expenses or similar purposes, or contract rights connected therewith.

For the purposes of this article only, the ownership of stock in a water company not appurtenant to the land shall be considered real property to the extent of and in the amount necessary to obtain water for agricultural purposes.

For the purposes of this article, estates for years, when used for the purpose of providing a place of residence for the owners thereof and when such estate is for a period of not less than 10 years, shall be considered real property.

For the purposes of this article, any place of abode of an applicant or recipient, whether house, boat, trailer, or other habitation, shall be considered real property.

No security under this article shall be granted or paid to any person who owns real

property the assessed value of which as assessed by the county assessor, less all encumbrances thereon of record, exceeds three thousand five hundred dollars ($3,500) at the time such person make application for security.

Sec. 7. Application for security under this article shall be made to the Department of Social Welfare at the department office nearest to the residence of the applicant. An applicant shall apply in person unless he is physically unable to do so, in which event the application may be made by his authorized representative in his behalf. This application may be made in writing or reduced to writing upon the standard form prescribed by the Director of Social Welfare, and a copy of his application shall be furnished to each applicant at the time of application. The form shall contain questions, the answers to which will provide the information necessary to establish eligibility for security under this article.

Application for security under this article may be made within 60 days prior to the date on which the applicant will attain the minimum age of eligibility for such security, and the application shall be promptly investigated and acted upon; but in no event shall the security, if granted, be commenced as of a date prior to the date on which the applicant attains the minimum age of eligibility therefor.

The State Department of Social Welfare, directly or through an authorized investigator shall upon receipt of an application for security, promptly without any unnecessary delay and with all diligence make the necessary investigation. Such investigation shall be completed within 60 days after receipt of application.

Money received by a recipient of old age and/or blind security, from the condemnation sale of his home shall not be deemed personal property within the provisions of this article, until the expiration of 12 months from the date of the receipt of said money.

For the purposes of this article, money derived from the sale of real property shall be considered real property for a period of six months from the date of its receipt by the vendor.

Sec. 8. Within 10 days after the completion of the investigation of his application, every applicant shall be given an itemized report setting forth the amount of deductions, if any, and old age and/or blind security granted to him, and if his security is computed on the basis of his excess need, the budget allowances made in determining the amount of security granted to him. The pricing established for food, clothing, incidentals and personal needs, household operations and transportation shall be based upon the current price of articles of a high standard quality.

No rule or regulation shall be adopted by the Director of the Department of Social Welfare, which results in discrimination against practitioners of any type of therapy, treatment by prayer or spiritual means or other treatment or any branch of the healing arts.

No political subdivision shall discriminate against an applicant or recipient of security or charge said person for hospitalization or health services.

Sec. 9. If this article is adopted by the people, it shall take effect five days after the date of the official declaration of the vote by the Secretary of State and become operative upon the first day of the first month following the fourth day after the date of the official declaration of the vote.

Until this article becomes both effective and operative the provisions of the Welfare and Institutions Code as in effect prior to the effective date of this article shall remain operative.

All provisions of the Welfare and Institutions Code not in conflict with this article shall remain operative until amended or repealed by the Legislature.

Upon the operative date the Director of the Department of Social Welfare shall succeed to and be entitled to the possession and control of all county records, books, papers, equipment and other personal property belonging to the State and used in connection with the administration of the aid to the aged and aid to the blind under the Welfare and Institutions Code on that date and upon request the county shall give the Director of Social Welfare possession of such records, books, papers, equipment, and other personal property.

Payments to those qualified to receive security under this article shall be mailed or disbursed on or before the first day of each month.

The amount of security provided herein shall be paid to all eligible applicants and recipients as of the first day of January, 1949. If, however, the department is unable by that date to make adjustments in the payment of the security to any person eligible as of that date, the adjustment in the amount of the security shall be made retroactive to that date.

Sec. 10. The amount required to meet the allowances made by this article and administration thereof shall constitute a lien against all moneys in the State Treasury, and the amount required for the payment or payments of the allowances herein required is hereby appropriated; in addition there is hereby appropriated the required amount of the cost of administration.

Sec. 11. No law shall be passed prohibiting or restricting the applicants or recipients of security under this article from securing and employing persons to represent them to secure the rights herein and hereafter established.

Sec. 12. If the Constitution is amended by the repeal of Sections 12 and 13 of Article XVI the liens, mortgages, and other encumbrances thereby released shall not be revived, and no law shall be passed providing for any such liens, mortgages, or other encumbrances as a condition for qualifying for the security herein granted.

CODE Added Cal. Const. art. XXV.

Case Perry v. Jordan. 34 Cal. 2d 87 (1949).

Full Text

Record: 433

Proposition #	**2**
Title	**AGED AND BLIND AID**
Year/Election	**1949** special
Proposition type	initiative
Popular vote	Yes: 1,560,484 (57.5%); No: 1,152,329 (42.5%)
Pass/Fail	Pass
Summary	Adds Article XXVII, repeals Article XXV, State Constitution. Reinstates plan of Old Age Security and Aid to Blind, and method of administration thereof, in existence prior to adoption of Article XXV, except that maximum aid payments are retained at present level of $75 per month for aged persons and $85 per month for blind persons, with participation by the State and the counties. Authorizes Legislature to increase or decrease amount of payments to aged and to blind, and otherwise to amend or repeal existing laws.

For

Argument in Favor of Initiative Proposition No. 2

VOTE "YES"! A "yes" vote on Proposition 2 on Tuesday, November 8, 1949, is a vote for just, sound and workable pensions. A "yes" vote on Proposition 2 benefits the needy aged and blind.

VOTE "YES"! Proposition 2 provides $85 a month to the blind and $75 a month to senior citizens. Proposition 2 allows necessary changes in those payments, something which is not possible now except by amending the State Constitution at a costly state-wide election.

VOTE "YES"! Proposition 2 abolishes the provisions of the pension law which discriminate against the California schools and your children. Proposition 2 safeguards the financial reserves you have carefully built up for education.

VOTE "YES"! Proposition 2 corrects the unfair provisions in the present law which discriminate against the blind. Most blind pensioners are in the productive years of life. They want to rehabilitate themselves and become self-supporting. The present law discourages and prevents this.

VOTE "YES"! Proposition 2 prevents pension politicians from extracting large fees from the aged and blind. It protects the needy from the greedy pension politicians.

VOTE "YES"! Your "yes" vote on Proposition 2 will help smash a political clique

headed by pension promoter George H. McLain which has ridden to power on the backs of the aged and blind. Under the scheme promoted by this clique the Director of the State Department of Social Welfare is a pension dictator with powers which violate the fundamental American concept of checks and balances in government. This director alone issues rules and regulations, hears appeals from grievances which she and her employees have themselves committed, and alone may determine the amount of money which the Constitution appropriates for public assistance and administrative costs.

This director controls the spending of $200,000,000 each year of public money. She draws a salary of $12,000 per year plus "necessary" expenses. She is not answerable to the Governor or the Legislature.

This director has issued administrative rulings which have hurt the needy -- rulings which have actually diminished pension grants to thousands of aged and blind persons.

VOTE "YES"! Proposition 2 restores California's pension program to a sound, sensible basis, subject to workable controls by the people's elected representatives.

VOTE "YES"! Proposition 2 removes a dangerous threat to the financial stability of the State.

VOTE "YES"! Proposition 2 benefits wage earners, farmers, senior citizens, the blind, parents and school children, taxpayers and businessmen alike.

VOTE "YES"! Proposition 2 keeps California in the forefront of the states committed to social justice.

Remove pensions from politics -- protect the needy from pension politicians -- guarantee a more secure future for yourself and your family -- insure payment of $85 a month to the needy blind and $75 a month to the needy aged, free from promoter polities.

VOTE "YES" ON PROPOSITION 2.

FOR(au) Dr. Newel Perry |t President, The California Council for the Blind

FOR(au) Mrs. G. W. Luhr |t President, The California Congress of Parents and Teachers

FOR(au) Ray B. Wiser |t President, The California Farm Bureau Federation

FOR(au) Ben C. Duniway |t President, The California Association for Social Welfare

FOR(au) Mrs. Pauline McT. Ploeser |t President, The League of Women Voters of California

Against **Argument Against Initiative Proposition No. 2**

Proposition No. 2 should be defeated because it takes away from the aged and blind all the benefits voted by the people last November. Therefore, the title of "AGED AND BLIND AID" is a fraud.

It is the first attempt in the State's history to set aside an initiative voted by the people BEFORE IT WAS EVEN GIVEN A FAIR TRIAL. The repeal was started immediately after election, before the new law went into effect.

All bona fide organizations representing the needy aged and blind are opposed to Proposition No. 2. It stands to reason that no legitimate aged or blind group interested in the needy would participate in a move to deprive them of benefits voted by the people.

The California Council for the Blind, signer of the repeal, is controlled by a few members, NONE OF THEM NEEDY.

Its president, Newell Perry, in a letter written December 7, 1948, admitted the California Council for the Blind is a FALSE FRONT FOR BIG BUSINESS. Here is what he wrote:

"The financiers and business men felt that we should immediately proceed with the initiative petition, repealing Proposition 4. This would prove very expensive, but we were assured that the necessary money was forthcoming, and it would entail no expense to the blind. All that would be expected from the blind would be to endorse the initiative petition and to have some of them accept membership on a large statewide committee."

In this repeal, the California Council for the Blind and other organizations, are a FALSE FRONT FOR THE CALIFORNIA STATE CHAMBER OF COMMERCE.

For instance, Mrs. G. W. Luhr, who claims to speak for the California Parent Teachers Association, IS THE WIFE OF AN OFFICIAL OF THE SOUTHERN PACIFIC RAILROAD. The members are unaware that their officers and organization is being used as a front for big business on this issue.

The motive of the California State Chamber of Commerce is to shift more than $21,000,000 in taxes now paid by the railroads, banks and corporations onto the overtaxed home-owners and farmers.

Under the present law county taxpayers were saved $21,000,000 when the State assumed the counties' share of old age pension and blind aid costs.

Proposition No. 2 destroys this guarantee and places the amount of pensions at the mercy of a Legislature controlled by lobbyists.

Proposition No. 2 will take away security from the needy in the 63-64 age bracket, and force them on the relief rolls of the counties.

It restores the "responsible relatives" clause, which compels people to deprive their children of necessities to meet the contributions exacted by the State.

Few of us have any assurance today that we will not require aid in our old age or if blindness strikes.

Don't be misled by propaganda in the newspapers into voting against your own interests!

Defeat this fraud against you by protecting the aged and the blind -- thereby saving home-owners, farmers and county taxpayers from this scheme of big business to unload the cost.

Vote "NO" on Proposition No. 2.

Against(au) George H. McLain |t Chairman, Citizens' Committee for Old Age Pensions

Against(au) Frank E. Gardner |t Chairman, Legislative Committee of California Blind

Against(au) Charles Ohlson |t Vice President, California Institute of Social Welfare

Against(au) Mrs. Eva Scott |t State President, American War Mothers

Against(au) John F. Shelley |t President, California State Federation of Labor

Text of Prop. (This proposed amendment expressly repeals and existing article of and adds a new article to the Constitution, therefore, **EXISTING PROVISIONS** proposed to be **REPEALED** are printed in ~~STRIKEOUT~~ ~~TYPE~~; AND **NEW PROVISIONS** proposed to be **INSERTED** are printed in **BLACK-FACED[BOLD] TYPE.**

PROPOSED AMENDMENT TO THE CONSTITUTION

ARTICLE XXVII

Repeal of Article XXV Old Age Security and Security for the Blind

Section 1. Article XXV of amendment to the Constitution of the State of California is hereby repealed.

~~ARTICLE XXV~~

Old Age Security and Security of the Blind Law

Section 1, The purpose of this article is to increase the amount of old age security to the needy aged of this State from its present maximum of $60 per month to $75 per month, and to increase the security to the needy blind from its present maximum of $75 per month to $85 per month and other provisions designed to improve the applicant's or recipients way of life.

Increased cost of living has made the present amount of security to the needy aged and blind of this State inadequate, and in order to provide for the protection, care, and assistance to the people of the State in need and promote the welfare and happiness of all of the people of the State, the increase of assistance to the needy aged and needy blind as provided by this article is necessary.

It is also the purpose of this article that this assistance shall be administered promptly and humanely, with due regard for the preservation of family life, and without discrimination on account of race, religion, or political affiliation, and that assistance shall be so administered as to encourage self respect, self reliance, and the desire to be a good citizen useful to society.

It is the purpose of this article to give security to every aged and blind person eligible under this article and who is needy, according to the provisions laid down by the Federal Government.

This article shall be cited as the Old Age Security and Security for the Blind Law, and all references to same shall be Old Age Security and Security for the Blind.

All security given under this article shall be absolutely inalienable by any assignment, sale, attachment, execution, or otherwise. In case of bankruptcy the security shall not pass through any trustee or other person acting on behalf of creditors.

No officer or employee of the State shall make any demand on any person to contribute to the support of the applicant for, or recipient of, old age security or blind security under this article, or to agree so to contribute or shall threaten any such person with any legal action against him or with any penalty against him whatsoever.

Nothing in this article shall prevent any applicant from exercising any rights to sue for support that he may have under any other provisions of law and security shall not be withheld unless he exercises such rights.

As used in this article security shall mean any grants provided to an individual under this article.

Sec. 2. The amount of security to which any applicant for old age security shall be entitled shall be, when added to the income (including the value of currently used resources but excepting casual income and inconsequential resources) of the applicant from all other sources, seventy-five dollars ($75) per month. If, however, in any case it is found the actual need of an applicant exceeds seventy-five dollars ($75) per month, such applicant shall be entitled to receive old age security in an amount not to exceed seventy-five dollars per month, which when added to his income (including value of currently used resources but excepting casual income and inconsequential resources) from all other sources shall equal his need.

The amount of security to which any applicant for blind security shall be entitled shall be when added to the income (including the value of currently used resources but excepting casual income and inconsequential resources) of the applicant from all other sources eighty five dollars ($85) per month. If however, in any case it is found that actual need of an applicant exceeds eighty five dollars ($85) per month such applicant shall be entitled to receive blind security in an amount to exceed eighty five dollars ($85) per month which when added to his income (including the value of currently used resources but excepting casual income and inconsequential resources) from all other sources shall equal his actual need.

Sec. 3. For the purposed of this article income and earnings of an applicant shall not be deemed income or resources of the applicant and shall not be deducted from the amount of old age security and blind security to which the applicant would otherwise be entitled except if the net income and earnings exceed $260 annually.

This section shall take effect if when and to the extent that amendments to the Federal statutes or rules and regulations of The Federal Security Administration take effect permitting this State to give effect to this section without thereby rendering this State ineligible to receive Federal grants in aid for old age and blind security in this State.

Sec. 4. The Director of the Department of Social Welfare shall prescribe the form of application, the manner and form of all reports, and such additional rules and regulations as are necessary for the carrying out of the provisions of this article and not

inconsistent therewith. The Director of the Department of Social Welfare shall make such reports in such form and containing such information as the Federal Security Administrator may from time to time require and shall comply with such provisions as the Federal Security Administrator may from time to time find necessary to assure the correctness and verification of such reports.

The Director of the Department of Social Welfare shall be elected by the people for a term of four years, beginning in 1950 at a salary of not less than twelve thousand dollars ($12,000) per year plus the usual necessary expenses.

The Director of the Department of Social Welfare shall administer all of the functions now imposed upon him by law and such other duties as the Legislature may from time to time provide.

The Director of the Department of Social Welfare may appoint with the consent of the Senate, a committee or board of not to exceed seven (7) members, to aid and assist in the program under his jurisdictions. The committee or board so appointed shall serve at the pleasure of the Director of the Department of Social Welfare. The compensation of the members shall be set by the Legislature.

Members of the committee or board shall receive necessary expenses incurred in the course of their duties.

The Director of the Department of Social Welfare shall be empowered to act for the State in any matters required by the Federal Government that have to do with his line of duties.

Until the election of the Director of the Department of Social Welfare in 1950, Mrs. Myrtle Williams, 420 Avondale, Monterey Park, shall be Director; if she declines to act, Assemblyman Gordon R. Hahn of Los Angeles County, shall be Director; if he declines to act, Assemblyman John W. Evans of Los Angeles County, shall be the Director.

Sec. 5. Old age security shall be granted under this article to any person who is a citizen of the United States and comes within the description in subdivision a or b and within the description in subdivision e.

(a) Is 65 years of age or over and has been a resident of the State of California for at least five years within the nine years immediately preceding his application for old age security, or

(b) Is 63 years of age or over but has not yet reached his 65th birthday, and has been a resident of the State for at least ten years within the fifteen years immediately preceding his application for old age security.

If and when and during such time as the Federal Government shall provide or make available to this State grants in aid to persons who have attained the age of 60 years, the ages contained in this section shall be reduced to 60 years and those who come within all the descriptions hereinafter contained shall be eligible for old age security under this article.

Unless and until the Federal Government makes available payments to Group (b), total payments to said Group (b) shall be assumed by the State of California.

The residence requirement in this section shall automatically conform to any changes required by the Federal Government in order to maintain compliance with the Federal Social Security provisions.

(c) Is not, at the time of receiving such security, an inmate of any public home for the aged, or any public home, or any public institution of a custodial, correctional, or curative character, except in the case of temporary medical or surgical care in a public hospital not exceeding two calendar months in duration. Any such inmate, however, may make an application for security under this article and have his application investigated and acted upon without delay, in the same manner as applications of other persons are acted upon while he is such an inmate, and, if he is otherwise qualified under the terms of this article, such application shall be approved. Payment of security granted shall commence within one month following such approval and the applicant may remain an inmate until he receives his first monthly payment whereupon he shall cease to be such inmate. Persons who are inmates of a boarding home or other institution not supported in whole or in part by public funds shall be granted security but no such security shall be granted if such persons are cared for under a contract for a period of time exceeding one month.

Notwithstanding any provision of subdivision (c) of this section to the contrary, security shall be granted to any person who is an inmate of a home or institution maintained by any fraternal, benevolent, or nonprofit organization, if the organization has not been paid for the life care and maintenance of the person through assessment of dues of said inmate or otherwise, whether or not the person has agreed or promised to pay for his maintenance in the event that he receives any pension, bequest, devise, or other inheritance.

If on the first day of the month a recipient of security is eligible for security though an inmate of an institution or hospital, he is entitled to receive security for the month. If a recipient of aid becomes ineligible for security due to confinement in an institution or hospital, the order suspending his security may provide that the security shall be restored to him when the recipient ceases to be an inmate without further order from the Director of the Department of Social Welfare.

Sec. 6. No security under this article shall be granted or paid to any person who owns personal property, the value of which, less all encumbrances of record, exceeds fifteen hundred dollars ($1,500).

The term personal property shall not include a policy or policies of life insurance on the life of the applicant or recipient which has or have been in effect at least 12 months prior to the date of the application if the present surrender value of the policy or policies to the applicant or recipient does not exceed one thousand dollars ($1,000). Premiums paid by others on life insurance policies shall not be deemed income or resources of the applicant or recipient.

For the purposes of this article, the interest of an applicant or recipient in an estate as heir, devisee, or legatee shall not be considered property of the applicant or recipient

until it has been distributed to him and is available for expenditure or disposition by him, and the interest of a beneficiary of a trust shall not be considered to be property of the beneficiary until it has been made available for expenditure or disposition by him.

For the purposes of this article, the term "personal property" shall not include personal effects of the applicant or recipient. Personal effects include clothing, personal jewelry, furniture, motor vehicles, household equipment, food stuffs and fuel, interment plots as defined in Section 7022 of the Health and Safety Code, or insurance for funeral or interment expenses or similar purposes, or contract rights connected therewith.

For the purposes of this article only, the ownership of stock in a water company not appurtenant to the land shall be considered real property to the extent of and in the amount necessary to obtain water for agricultural purposes.

For the purposes of this article, estates for years, when used for the purpose of providing a place of residence for the owners thereof and when such estates is for a period of not less than 10 years, shall be considered real property.

For the purposes of this article, any place of abode of an applicant or recipient, whether house, boat, trailer, or other habitation, shall be considered real property.

No security under this article shall be granted or paid to any person who owns real property the assessed value of which as assessed by the county assessor, less all encumbrances thereon of record, exceeds three thousand five hundred dollars ($3,500) at the time such person makes application for security.

Sec. 7. Application for security under this article shall be made to the Department of Social Welfare at the department office nearest to the residence of the applicant. An applicant shall apply in person unless he is physically unable to do so in which event the application my be made by his authorized representative in his behalf. This application may be made in writing or reduced to writing upon the standard form prescribed by the Director of Social Welfare, and a copy of his application shall be furnished to each applicant at the time of application. The form shall contain questions, the answers to which will provide the information necessary to establish eligibility for security under this article.

Application for security under this article may be made within 60 days prior to the date on which the applicant will attain the minimum age of eligibility for such security, and the application shall be promptly investigated and acted upon, but in no event shall the security, if granted, be commenced as of a date prior to the date on which the applicant attains the minimum age of eligibility therefor.

The State Department of Social Welfare, directly or through an authorized investigator shall upon receipt of an application for security, promptly without any unnecessary delay and with all diligence make the necessary investigation. Such investigation shall be completed within 60 days after receipt of application.

Money received by a recipient of old age and/or blind security from the condemnation sale of his home shall not be deemed personal property within the provisions of this article, until the expiration of 12 months from the date of the receipt

of said money.

For the purposes of this article, money derived from the sale of real property shall be considered real property for a period of six months from the date of its receipt by the vendor.

Sec. 8. Within 10 days after the completion of the investigation of his application every applicant shall be given an itemized report setting forth the amount of deductions, if any, and old age and/or blind security granted to him, and if his security is computed on the basis of his excess need, the budget allowances made in determining the amount of security granted to him. The pricing established for food, clothing, incidentals and personal needs, household operations and transportation shall be based upon the current price of articles of a high standard quality.

No rule or regulation shall be adopted by the Director of the Department of Social Welfare, which results in discrimination against practitioners of any type of therapy, treatment by prayer or spiritual means or other treatment or any branch of the healing arts.

No political subdivisions shall discriminate against an applicant or recipient of security or charge said person for hospitalization or health services.

Sec. 9. If this article is adopted by the people, it shall take effect five days after the date of the official declaration of the vote by the Secretary of State and become operative upon the first day of the first month following the fourth day after the date of the official declaration of the vote.

Until this article becomes both effective and operative the provisions of the Welfare and Institutions Code as in effect prior to the effective date of this article shall remain operative.

All provisions of the Welfare and Institutions Code not in conflict with this article shall remain operative until amended or repealed by the Legislature.

Upon the operative date the Director of the Department of Social Welfare shall succeed to and be entitled to the possession and control of all county records, books, papers, equipment and other personal property belonging to the State and used in connection with the administration of the aid to the aged and aid to the blind under the Welfare and Institutions Code on that date and upon request the county shall give the Director of Social Welfare possession of such records, books, papers, equipment, and other personal property.

Payments to those qualified to receive security under this article shall be mailed or disbursed on or before the first day of each month.

The amount of security provided herein shall be paid to all eligible applicants and recipients as of the first day of January, 1949. If, however, the department is unable by that date to make adjustments in the payment of the security to any person eligible as of that date, the adjustment in the amount of the security shall be made retroactive to that date.

Sec. 10. The amount required to meet the allowances made by this article and administration thereof shall constitute a lien against all moneys in the State Treasury, and the amount required for the payment or payments of the allowances herein required is hereby appropriated; in addition there is hereby appropriated the required amount of the cost of administration.

Sec. 11. No law shall be passed prohibiting or restricting the applicants or recipients of security under this article from securing and employing persons to represent them to secure the rights herein and hereafter established.

Sec. 12. If the Constitution is amended by the repeal of Sections 12 and 13 of Article XVI the liens, mortgages, and other encumbrances thereby released shall not be revived, and no law shall be passed providing for any such liens, mortgages, or other encumbrances as a condition for qualifying for the security herein granted.

Section 2. All provisions of this Constitution which were repealed by Article XXV of amendment to this Constitution because they were in conflict therewith, if any, are hereby reenacted, revived and declared to be fully and completely effective.

Section 3. (a) All laws which were repealed by Article XXV of amendment to this Constitution because they were in conflict therewith are hereby re-enacted, revived and declared to be fully and completely effective.

(b) All of the provisions of Chapters 1, 2, and 3 of Division III of the Welfare and Institutions Code of the State of California relating to Old Age Security and Chapters 1, 2, and 3 of Part 1 of Division V of the Welfare and Institutions Code of the State of California relating to Aid to Blind as in effect at the time of the passage of Article XXV of amendment of the Constitution of the State of California are hereby re- enacted, revived and declared to be fully and completely effective.

(c) Nothing contained in paragraph (b) of this Section shall be construed to limit in any way the provisions contained in paragraph (a) of this Section.

(d) All of the laws re-enacted, revived and declared to be fully and completely effective by this Section may, at any time, be amended or repealed by the Legislature.

Section 4. (a) Section 2020 of the Welfare and Institutions Code of the State of California is amended to read as follows:

2020. Amount of aid allowed. The amount of aid to which any applicant shall be entitled shall be, when added to the income (including the value of currently used resources, but excepting casual income and inconsequential resources) of the applicant from all other sources, seventy-five dollars ($75) per month. If, however, in any case it is found the actual need of an applicant exceeds seventy-five dollars ($75) per month, which when added to his income (including the value of currently used resources, but excepting casual income and inconsequential resources) from all other sources, shall equal his actual need.

(b) Section 2025 of the Welfare and Institutions Code of the State of California is

amended to read as follows:

2025. Increase or decrease of federal contributions: Change in amount of aid: Maximum and minimum: Legislative intent. If, when, and during such time as the United States Government increases or decreases its contributions in assistance of the aged in this State above or below the amount being paid on January 1, 1947, or above or below the amount payable as a result of any such increase or decrease, the amount of the grant of aid provided for in this article shall be increased or decreased by an amount equal to such increase or decrease by the United States Government, but in no event shall the total aid granted under this chapter be more than seventy-five dollars ($75) nor less than sixty-five dollars ($65) per month. It is the intent of the Legislature that any change in contributions by the United States Government, whether increase or decrease, shall result in a corresponding change in the amount of this grant, within the limits established by this section.

(c) Section 3025 of the Welfare and Institutions Code of the State of California is amended to read as follows:

3025. State appropriations to counties. There is hereby appropriated out of any money in the State Treasury not otherwise appropriated to every county in the State, maintaining, supporting, or caring for, as hereinafter provided in this chapter, any needy blind person, resident of such county, aid not in excess of seven hundred sixty-five dollars ($765) per annum for each such needy blind person so maintained, supported and cared for, or aid not in excess of one thousand and twenty dollars ($1020) per annum in the event such needy blind person has no county residence as provided in this chapter.

(d) Section 3084 of the Welfare and Institutions Code of the State of California is amended to read as follows:

3084. Order for aid: Issuance: Amount: Payment. If the county board of supervisors is satisfied that the applicant is entitled to aid under the provisions of this chapter, it shall, without delay, issue an order therefor.

The amount of aid to which any applicant shall be entitled shall be, when added to the income (including the value of currently used resources, but excepting casual income and inconsequential resources) of the applicant from all other sources, eighty-five dollars ($85) per month. If, however, in any case it is found the actual need of an applicant exceeds eighty-five dollars ($85) per month such applicant shall be entitled to receive aid in an amount, not to exceed eight-five [sic] dollars ($85) per month, which when added to his income (including the value of currently used resources, but excepting casual income and inconsequential resources) from all other sources, shall equal his actual need.

The aid granted under this chapter shall be paid monthly, in advance, out of such funds as may be designated by the board of supervisors on warrant of the county auditor of the county. Payments of aid shall be commenced as of the first day of the month in which the application is granted, unless otherwise directed by the State Social Welfare Board in cases in which an appeal is taken; but in any event the beginning of aid shall not antedate the date of application.

(e) Section 3420 of the Welfare and Institutions Code of the State of California is amended to read as follows:

3420. State appropriation. There is hereby appropriated out of any money in the State Treasury not otherwise appropriated to every county in the State, maintaining, supporting, or caring for, as hereinafter provided in this chapter, any blind person, resident of such county, aid not in excess of eight hundred fifty dollars ($850) per annum for each such blind person so maintained, supported and cared for, or aid not in excess of one thousand twenty dollars ($1020) per annum in the event such blind person has no county residence as provided for in this chapter.

(f) Section 3472 of the Welfare and Institutions Code of the State of California is amended to read as follows:

3472. Order for aid: Amount: Income not to be considered: Computation of additional income. If the county board of supervisors is satisfied that the applicant is entitled to aid under the provisions of this chapter, it shall, without delay, issue an order therefor. The amount of aid to which any applicant shall be entitled shall be, when added to the net income of the applicant from all other sources, eighty-five dollars ($85) per month.

Net income from any of the following sources of a combined total value not exceeding eight hundred dollars ($800) per annum shall not be considered for any purpose:

(a) Income from applicant's labor or services;

(b) The value of foodstuffs produced by the applicant or his family for his use or that of his family;

(c) The value of firewood and/or water produced on the premises of the applicant or given to him by another for the applicant's use;

(d) The value of gifts;

(e) The value of the use and occupancy of premises owned and occupied by the applicant;

(f) The net income from real and personal property owned by the applicant.

Income in addition to the above specified shall be computed on the basis of net income.

All laws of this State that are inconsistent with any of the provisions of this Section 4 including all laws re-enacted and revived and declared to be fully and completely effective by this Article are hereby repealed.

All or any Sections of the Welfare and Institutions Code of the State of California hereby amended, may be further amended or may be repealed by the Legislature.

Section 5. If this Article is adopted by the people, it shall take effect five days after the date of the official declaration of the vote by the Secretary of State and become operative upon the first day of the third month following the last day of the month in which occurs the date of the official declaration of the vote.

Until this Article becomes both effective and operative the provisions of Article XXV of Amendment to this Constitution as in effect prior to the effective date of this Article shall remain operative.

Section 6. If any portion, section or clause of this Article shall for any reason be declared unconstitutional or invalid, such declaration or adjudication shall not affect the remainder of this Article.

CODE Added Cal. Const. art. XXVII. Repealed Cal. Const. art. XXV.

Case Pearson v. State Soc. Welfare Bd.. 54 Cal. 2d 184 (1960).

Full Text

Record: 469

Proposition #	3
Title	**TAXATION: WELFARE EXEMPTION OF NONPROFIT SCHOOL PROPERTY**
Year/Election	**1952** general
Proposition type	referendum
Popular vote	Yes: 2,441,005 (50.8%); No: 2,363,528 (49.2%)
Pass/Fail	Pass
Summary	Act amends Section 214, Revenue and Taxation Code. Extends property tax exemption, known as welfare exemption, to property used exclusively for schools of less than collegiate grade owned and operated by nonprofit religious, hospital or charitable organizations.

Analysis

Analysis by the Legislative Counsel

This referendum measure submits Chapter 242 of the Statutes of 1951 to a vote by which the electors may express their approval or disapproval of that legislation. If approved, Chapter 242 would broaden the exemption from property taxation provided by Section 214 of the Revenue and Taxation Code (the "welfare exemption") by exempting property of private schools of less than collegiate grade. The property of private, nonprofit educational institutions of collegiate grade is under certain conditions now exempt from taxation under other provisions of law.

The welfare exemption was authorized by a constitutional amendment adopted in 1944 (Art. XIII, Sec. 1c). Pursuant to this authorization the Legislature has by Section 214 of the Revenue and Taxation Code exempted property used exclusively for religious, hospital, scientific or charitable purposes owned and operated by community chests, funds, foundations or corporations organized and operated for religious, hospital, scientific, or charitable purposes, if the property and the owner thereof meet the conditions imposed by the Legislature designed to assure compliance with the constitutional amendment.

As a result, if this measure is approved, and if property of an educational institution of less than collegiate grade qualifies under the conditions prescribed by the existing exemption, that property will be exempt under the same conditions that other property used exclusively for religious, hospital, scientific or charitable purposes is now exempt.

For

Argument in Favor of Referendum Measure No. 3

Your "YES" vote on PROPOSITION 3 will sustain the action of the State Legislature which in 1951 voted almost unanimously (108 to 3) to give non-profit schools tax equality as a matter of justice, and as an aid in solving the alarming shortage of schools in California.

Principally affected are two kinds of schools .... (1) elementary and high schools maintained by more than a dozen religious denominations; and (2) the many schools for the blind, deaf-mutes, crippled, palsied and mentally retarded maintained by charitable foundations.

California is the only state in the Union which taxes schools of this character. The principle of giving these schools tax equality with public schools has been recognized in 47 of the 48 states because non-tax-supported schools perform a valuable public service, which otherwise would become a further burden on the taxpayer; also because "Penalty taxation" of church-financed schools is a violation of our traditional separation of church and state.

This principle of tax equality has long been established. In 1914 California granted tax exemption to non-profit colleges and universities. Stanford, University of San Francisco, University of Southern California, College of the Pacific and Pomona, for example, were thus given tax equality with the State Universities.

Non-profit schools educated 182,483 children in California last year, and have helped relieve the badly over-crowded public school system which has been forced to place thousands of our children on half day sessions. These non-profit schools have saved the taxpayers an estimated $350,000,000 on the cost of providing class rooms, and save the taxpayers an additional $41,000,000 annually in operating expenses.

To sustain the State Legislature means that approximately $700,000 in taxes must be absorbed. This is insignificant (less than a candy bar per person) contrasted with the $41,000,000 saved to the taxpayers each and every year by these schools. Hence you can see why it is not only just, but also good business, to grant all non-profit schools tax equality.

A "YES" vote on PROPOSITION 3 will continue these savings to the taxpayers, but at the same time will give no taxpayer a "free ride." Parents of children in the non-profit, non-tax-supported schools will continue to pay taxes for public schools, as well as to maintain solely at their own expense the schools operated by religious and charitable groups.

The subject of extending tax equality to non-profit elementary and high schools was before the State Legislature for more than six weeks. After open hearings and full opportunity for all to be heard, it was passed overwhelmingly (108 to 3) and signed by the Governor. Now it has been referred to the voters for their approval as PROPOSITION 3.

A "YES" vote on PROPOSITION 3 will help our public school system, will benefit the taxpayer, will align California with the other 47 states of the Union who give justice to children attending non-tax-supported elementary and high schools.

FOR(au) Fleet Admiral Chester W. Nimitz |t Regent, University of California

FOR(au) C. J. Haggerty |t Secretary-Treasurer, California State Federation of Labor

FOR(au) Adrien J. Falk |t Past President, California State Chamber of Commerce

Against **Argument Against Referendum Measure No. 3**

There are at least six reasons why the proposed legislation should not be enacted into law; and any one of them is more than sufficient for a NO vote:

1. It would add more millions of dollars to the already too large amount (now estimated at 765 millions) of private property exempt from taxation; and thus further narrow the tax base.

This would, of course, further increase the taxes on property not exempt, including small homes and apartments.

If the tax base is to be changed, it should be broadened -- not narrowed; and that property may have been exempted in the past is no reason for another exemption.

2. There is no limit to the extent of this proposed exemption, as there is to the exemption granted universities and colleges.

3. If, as claimed by the proponents of the measure, the exemption should be granted because the parochial schools keep the children out of the public schools and thus lessen the cost of public education, then the property of all private schools should be exempted; and there is no reason to exempt only schools "owned and operated by religious * * foundations or corporations" i.e. parochial schools which are a component part of the Church which operates them.

4. To exempt only parochial schools is especially objectionable for other reasons.

No one will deny that a parent has a right to send his child to a private school if he so desires, even though it be one maintained primarily to indoctrinate the child with the ideology of a particular religion; but he has no right to expect a taxpayer who is not of that faith to help pay its cost.

The parochial school is not a partner, but a competitor, of our American system of free public schools; and any aid granted to a parochial school must be to the disadvantage of our public schools.

There is no argument in favor of this proposed exemption which could not be as well made (as it has been) for a share of all public money appropriated for our public schools.

5. The proposed measure violates the American principle of the separation of Church and State.

A tax exemption is the equivalent of a subsidy. It is in principle, and in effect, a grant of public money in aid of a religious sect, and helps support schools controlled and operated by a church or religious denomination.

6. If there were no other reason, the proposed measure should be defeated because the Welfare Constitutional Amendment, now claimed to authorize this exemption was never so intended.

The people had twice before refused to exempt these schools; and when authority was given to exempt "property used for religious, hospital or charitable purposes," it was on the assurance in the Voters' Handbook that "schools other than colleges will not be exempted."

This assurance was recognized and confirmed, when the Revenue Code was amended, by an express provision that it should not be construed to exempt schools.

Against(au) Charles Albert Adams |t Former Member, State Board of Education, Founder of Public Schools Week

Against(au) Henry W. Coil |t Attorney-at-Law

Against(au) Alfred J. Lundberg |t Past President, California State Chamber of Commerce

Text of Prop. (This proposed amendment expressly amends an existing section of the Constitution, therefore, **EXISTING PROVISIONS** proposed to be **DELETED** are printed in ~~STRIKEOUT TYPE~~, and **NEW PROVISIONS** proposed to be **INSERTED** are printed in **BLACK-FACED[BOLD] TYPE**.)

PROPOSED LAW

An act to amend Section 214 of the Revenue and Taxation Code, relating to the welfare exemption.

The people of the State of California do enact as follows:

Section 1. Section 214 of the Revenue and Taxation Code is amended to read:

214. Property used exclusively for religious, hospital, scientific, or charitable purposes owned and operated by community chests, funds, foundations or corporations organized and operated for religious, hospital, scientific, or charitable purposes is exempt from taxation if:

(1) The owner is not organized or operated for profit;

(2) No part of the net earnings of the owner inures to the benefit of any private shareholder or individual;

(3) The property is not used or operated by the owner or by any other person for profit regardless of the purposes to which the profit is devoted;

(4) The property is not used or operated by the owner or by any other person so as to benefit any officer, trustee, director, shareholder, member, employee, contributor, or bondholder of the owner or operator, or any other person, through the distribution of profits, payment of excessive charges or compensations or the more advantageous pursuit of their business or profession;

(5) The property is not used by the owner or members thereof for fraternal or lodge

purposes, or for social club purposes except where such use is clearly incidental to a primary religious, hospital, scientific or charitable purpose;

(6) The property is irrevocably dedicated to religious, charitable, scientific, or hospital purposes and upon the liquidation, dissolution or abandonment of the owner will not inure to the benefit of any private person except a fund, foundation or corporation organized and operated for religious, hospital, scientific, or charitable purposes;

(7) The property, if used exclusively for scientific purposes, is used by a foundation or institution which, in addition to complying with the foregoing requirements for the exemption of charitable organizations in general, has been chartered by the Congress of the United States, and whose objects are the encouragement or conduct of scientific investigation, research and discovery for the benefit of the community at large.

The exemption provided for herein shall be known as the "welfare exemption." This exemption shall be in addition to any other exemption now provided by law. This section shall not be construed to enlarge the college exemption ~~or to extend an exemption to property held by or used as an educational institution of less than collegiate grade~~. **Property used exclusively for school purposes of less than collegiate grade and owned and operated by religious, hospital or charitable funds, foundations or corporations, which property and funds, foundations or corporations meet all of the requirements of this section, shall be deemed to be within the exemption provided for in Section 1c of Article XIII of the Constitution of the State of California and this section.**

CODE Amended Cal. Rev. & Tax. Code section 214.

Full Text

Record: 473

Proposition #	7
Title	**ELECTIONS: BALLOT DESIGNATION OF PARTY AFFILIATIONS**
Year/Election	**1952** general
Proposition type	initiative
Popular vote	Yes: 2,958,574 (72.8%); No: 1,104,541 (27.2%)
Pass/Fail	Pass
Summary	Provides that at direct primary and special elections, the ballot shall show political party affiliation of each candidate for partisan office, as shown by candidate's registration affidavit.
Analysis	**Analysis by the Legislative Counsel**

This measure will require that the political party affiliation of each candidate for a partisan political office be printed following his name on the direct primary ballots of all parties the nomination of which he seeks. It applies to candidates for the offices of Governor, Lieutenant Governor, Secretary of State, Controller, Treasurer, Attorney General, Member of the State Board of Equalization, United States Senator, Representative in Congress, State Senator, and Member of the Assembly. It does not apply to candidates for judicial, school, county, township, and municipal offices, since these are nonpartisan.

Therefore, if this measure is approved, the name of a candidate affiliated, for example, with the Republican Party, who has "cross-filed" so as to run on the Democratic ballot as well, would be followed on the ballots of both parties by the abbreviation "Rep.," to indicate that he is affiliated with the Republican Party.

This measure would also require the party affiliation of candidates for election to a partisan political office at a special election to be similarly shown.

It makes a technical change in the ballot forms set forth in Section 3946 of the Elections Code to insert a statement at the top of such ballot forms that absentee ballots may be marked with a pen or pencil rather than with a rubber stamp. This portion of the measure makes no change in the law, since Section 3944 of the Elections Code already provides that such a statement must be printed on the ballots.

This measure was proposed as an alternative to Proposition No. 13 by the Legislature under paragraph 3 of Section 1 of Article IV of the Constitution, following the Legislature's rejection of that measure (the anti-cross-filing initiative). To the extent

to which a court may hold these measures to be in conflict, the measure receiving the highest affirmative vote will prevail if both are approved.

For **Argument in Favor of Proposition No. 7**

Proposition No. 7 would remove any uncertainty concerning the party affiliation of a candidate who cross-files in a primary election. It requires a candidate to state in abbreviated form the party with which he is affiliated, and thus removes any valid objection to retention of the cross-filing system which has for 40 years protected California voters regardless of partisan affiliation, from machine politics and boss rule.

Elsewhere on the ballot appears an initiative measure which, if adopted, would abolish the cross-filing act and thus deprive the voter of the opportunity to use his own judgment in voting for a candidate of his preference in primary elections.

Proposition No. 7 accomplishes any desirable objective of the anti-cross-filing initiative and involves none of its objectionable features.

For your own protection as a voter and in the interests of a strong two-party system unhampered by political machine exploitation, vote "YES" on Proposition No. 7.

FOR(au) Sam L. Collins |t Speaker of the Assembly

Against **Argument Against Proposition No. 7**

This measure makes an improvement in our election laws if cross-filing of candidates is to continue. At least it indicates to the voting public the party affiliation of partisan candidates in the Primary Election.

It *does not* abolish the cross-filing of candidates. Elsewhere on the ballot (Proposition No. 13) you can vote "Yes" to eliminate cross-filing. That is the real answer to the problem.

Against(au) Julian Beck |t Assemblyman, 41st Assembly District

Text of Prop. (This proposed amendment expressly amends an existing section of and adds new sections to the Elections Code, therefore, **EXISTING PROVISIONS** proposed to be **DELETED** are printed in ~~STRIKEOUT TYPE~~, and **NEW PROVISIONS** proposed to be **INSERTED** are printed in **BLACK-FACED[BOLD] TYPE**.)

PROPOSED LAW

An act to add Sections 53 and 3928.1 to, and to amend Section 3946 of, the Elections Code, relating to designation of party affiliation of candidates on ballots; and providing for the submission thereof to the electors for approval or rejection pursuant to paragraph 3 of Section 1 of Article IV of the California Constitution.

The people of the State of California do enact as follows:

Section 1. Section 53 is added to the Elections Code, to read:

53. On the ballots for any special election at which a partisan office is to be filled there shall be printed in the manner prescribed by Section 3928.1 after the name of each partisan candidate the designation of the party with which such candidate is affiliated.

Sec. 2. Section 3928.1 is added to said code, to read:

3928.1. On the direct primary ballots of each political party, in the same line in which the name of a candidate for any partisan office is printed and at the right of the name, or immediately below the name if there is not sufficient space to the right thereof, shall be printed the name of the political party with which the candidate is affiliated as shown in the affidavit of registration of the candidate. The name of such political party may be abbreviated by printing not less than the first three letters of the name of such political party. If the names of two or more political parties qualified to participate in the primary commence with the same first three letters sufficient additional letter of each such names shall be printed so that each party will be clearly identified.

Sec. 2. Section 3946 of said code is amended to read:

3946. Except as the order of the names of candidates the ballot shall be printed in substantially the following form:

CODE Added Cal. Elec. Code sections 53 and 3928.1. Amended Cal. Elec. Code section 3946.

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Full Text

Record: 642

Proposition #	**4**
Title	**Limitation of Government Appropriations**
Year/Election	**1979** special
Proposition type	initiative constitutional
Popular vote	Yes: 2,580,720 (74.3%); No: 891,157 (25.7%)
Pass/Fail	Pass

Summary

Official Title and Summary Prepared by the Attorney General

LIMITATION OF GOVERNMENT APPROPRIATIONS. INITIATIVE CONSTITUTIONAL AMENDMENT. Establishes and defines annual appropriation limits on state and local governmental entities based on annual appropriations for prior fiscal year. Requires adjustments for changes in cost of living, population and other specified factors. Appropriation limits may be established or temporarily changed by electorate. Requires revenues received in excess of appropriations permitted by this measure to be returned by revision of tax rates or fee schedules within two fiscal years next following year excess created. With exceptions, provides for reimbursement of local governments for new programs or higher level of services mandated by state. Financial impact: Indeterminable. Financial impact of this measure will depend upon future actions of state and local governments with regard to appropriations that are not subject to the limitations of this measure.

Analysis

Analysis by Legislative Analyst

Background:

The Constitution places no limitation on the amount which may be appropriated for expenditure by the state or local governments (including school districts), provided sufficient revenues are available to finance these expenditures. Nor does the Constitution limit the amount by which appropriations in one year may exceed appropriations in the prior year.

Proposal:

This ballot measure would amend the Constitution to:

. Limit the growth in appropriations made by the state and individual local governments. Generally, the measure would limit the rate of growth in appropriations to the percentage increase in the cost of living and the percentage increase in the state or

local government's population.

. Establish the general requirement that state and local governments return to the taxpayers moneys collected or on hand that exceed the amount appropriated for a given fiscal year.

. Require the state to reimburse local governments for the cost of complying with "state mandates." "State mandates" are requirements imposed on local governments by legislation or executive orders.

The appropriation limits would become effective in the 1980-81 fiscal year, which begins on July 1, 1980, and ends on June 30, 1981. These limits would only apply to appropriations financed from the "proceeds of taxes," which the initiative defines as:

. All tax revenues (we are advised by Legislative Counsel that this would include those tax revenues carried over from prior years);

. Any proceeds from the investment of tax revenues; and

. Any revenues from a regulatory license fee, user charge or user fee that *exceed* the amount needed to cover the reasonable cost of providing the regulation, product or service.

The initiative would not restrict the growth in appropriations financed from other sources of revenue, including federal funds, bond funds, traffic fines, user fee based on reasonable costs, and income from gifts.

The *appropriation limit for the state government* in fiscal year 1980-81 would be equal to the sum of all appropriations initially available for expenditure during the period July 1, 1978-June 30, 1979, that were financed from the "proceeds of taxes," less amounts specifically excluded by the measure (discussed below), with the remainder adjusted for changes in the cost of living and population. The appropriations limit for each succeeding year would be equal to the limit for the prior year, adjusted for changes in the cost of living and population. Thus, even if the state appropriations in a given year were held below the level permitted by this ballot measure, the appropriation limit for the following year would not be any lower as a result. The limit would still be based on the limit for the prior year, and not on the actual level of appropriations for that year.

The following types of appropriations would *not* be subject to the state limit:

(1) State financial assistance to local governments-that is, any state funds which are distributed to local governments other than funds provided to reimburse these governments for state mandates;

(2) Payments to beneficiaries from retirement, disability insurance and unemployment insurance funds;

(3) Payments for interest and redemption charges on state debt existing on January 1, 1979, or payments on voter-approved *bonded* debt incurred after that date;

(4) Appropriations needed to pay the state's cost of complying with mandates imposed by federal laws and regulations or court orders.

We estimate that the state appropriated approximately $7.9 billion from the "proceeds of taxes" in fiscal year 1978-79, after taking into account the exclusions listed above. This amount, referred to as "appropriations subject to limitation," represents approximately 40 percent of *total* General Fund and special fund appropriations made for that fiscal year. The main reason why the state's appropriation limit covers less than half of the state's total expenditures is that a large proportion of total state expenditures represents funds passed on to local governments for a variety of public purposes. Under this ballot measure, these funds would be subject to the limits on local, rather than state, appropriations.

The *appropriation limit for a local government* in fiscal year 1980-81 would be equal to the sum of all appropriations initially available for expenditure during the period of July 1, 1978-June 30, 1979, that were financed from the "proceeds of taxes," *plus* state financial assistance received in that year, *less* amounts specifically excluded by the measure (discussed below), with the remainder adjusted for changes in the cost of living and population. The appropriations limit in each subsequent year would be equal to the limit for the prior year, adjusted for changes in the cost of living and population. For each school district, "population" is defined in this measure as the district's average daily attendance.

The following types of appropriations would not be subject to the local limit:

(1) Refunds of taxes;

(2) Appropriations required for payment of local costs incurred as a result of state mandates. (The initiative requires the state to reimburse local governments for such costs, and the appropriation of such funds would be subject to limitation at the state level.);

(3) Payments for interest and redemption charges on debt existing on or before January, 1, 1979, or payments on voter- approved *bonded* debt incurred after that date;

(4) Appropriations required to pay the local government's cost of complying with mandates imposed by federal laws and regulations or court orders.

Furthermore, any special district which was in existence on July 1, 1978, and which had a 1977-78 fiscal year property tax rate of 12 1/2 cents per $100 of assessed value or less, would never be subject to a limit on appropriations. Special districts which do not receive any funding from the "proceeds of taxes" would also be exempt from the limits.

Under the initiative, the limit on state or local government appropriations could be changed in one of four ways:

(1) An appropriation limit *may* be changed temporarily if a majority of voters in the jurisdiction approve the change. Such a change could be made for one, two, three, or four years, but it could *not* be effective for more than four years unless a majority of the

voters again voted to change the limit.

(2) In the event of an emergency, an appropriation limit *may* be exceeded for a single year by the governing body of a local government without voter approval. However, if the governing body provides for an emergency increase, the appro- priation limits in the following three years would have to be reduced by an amount sufficient to recoup the excess appropriations. The initiative does not place any restrictions upon the types of circumstances which may be declared to constitute an emergency.

(3) If the financial responsibility for providing a program or service is transferred from one entity of government to another *government* entity, the appropriation limits of both entities must be adjusted by a reasonable amount that is mutually agreed upon. Any increase in one entity's limit would have to be offset by an equal decrease in the other entity's limit.

(4) If an entity of government transfers the financial responsibility for providing a program or service from itself to a *private* entity, or the source of funds used to support an existing program or service is shifted from the "proceeds of taxes" to regulatory license fees, user charges or use fees, the entity's appropriation limit must be decreased accordingly.

If, in any fiscal year, an entity of government were to receive or have on hand revenues in excess of the amount that it appropriates for that year, it would be required to return the excess to taxpayers within the next two fiscal years, The initiative specifies that these funds are to be returned by lowering tax rates or fee schedules. In addition, Legislative Counsel has advised us that direct refunds of taxes paid would also be permitted under the measure.

Because certain types of appropriations would not be directly subject to the limitations established by this ballot measure, it would be possible for the state or a local government with excess funds to spend these funds in the exempt categories rather than return the funds to the taxpayers. For example, the state could appropriate any excess revenues for additional financial assistance to local governments, because such assistance is excluded from the limit on state appropriations (This, in turn, might result in the return of excess revenues to local taxpayers if a local government were unable to spend these funds within its limit.) Similarly, a local government with an unfunded liability in its retirement system could appropriate its excess revenues to reduce the liability, as such an appropriation would be considered a payment toward a legal "indebtedness" under this ballot measure.

Finally, the initiative would establish a requirement that the state provide funds to reimburse local agencies for the cost of complying with state mandates. The initiative specifies that the Legislature need not provide such reimbursements for mandates enacted or adopted *prior* to January 1, 1975, but does not require explicitly that reimbursement be provided for mandates enacted or adopted after that date. Legislative Counsel advises us that under this measure the state would only be *required* to provide reimbursements for costs incurred as a result of mandates enacted or adopted *after* July 1, 1980.

Fiscal Impact:

This proposition is primarily intended to limit the rate of growth in state and local spending by imposing a limit on certain categories of state and local appropriations. As noted above, approximately 60 percent of current state expenditures would be excluded from the limit on state appropriations, although nearly all of these expenditures would be subject to limitation at the local level. Also, some unknown percentage of local government expenditures would not be subject to the limits on either state or local appropriations. Thus, the fiscal impact of this ballot measure would depend on two factors:

(1) What the rate of growth in state and local "appropriations subject to limitation" would be, in the absence of this limitation; and

(2) The extent to which any reductions in "appropriations subject to limitation" required by the measure are offset by increases in those appropriations *not* subject to limitation.

Impact on State Government. During six of the past ten years, total state spending has increased more rapidly than the cost of living and population. Thus, it is likely that, had this measure been in effect during those years, it would have caused "appropriations subject to limitation" to be less then they actually were.

It is *not* possible to predict with any accuracy the future rate of growth in state "appropriations subject to limitation." Thus it is not possible to estimate with any reliability what effect the measure, if approved, would have on such appropriations in the future. However, based on the best information now available (July 1979), we estimate that passage of the initiative would cause state "appropriations subject to limitation" in fiscal year 1980-81 to be modestly lower than they probably would be if the initiative were not approved. This assumes that state reimbursement would only be required for state mandates enacted or adopted after July 1, 1980. If the courts ruled that reimbursement was required for mandates enacted or adopted after January 1, 1975, the impact of the measure on "appropriations subject to limitation" would be substantial. This is because the state would be required to provide significant reimbursements to local governments within this limitation. We have no basis for predicting the impact in subsequent years.

Whether this would result in a reduction in *total* state spending would depend on whether the state decided to use the funds that could not be spent under the limitation for (1) additional financial assistance to local governments (or for some other category of appropriations excluded from the limit), or (2) state tax relief. Thus, the effect of this ballot measure on state spending in 1980-81 could range from no change to a modest reduction.

Impact on Local Governments. Existing data do not permit us to make reliable estimates of either the appropriation limits that local governments would face in fiscal year 1980-81 if this ballot measure were approved, or what these governments would spend in that fiscal year if the initiative were not approved. Nonetheless, we estimate that those school districts experiencing significant declines in enrollment would have to reduce "appropriations subject to limitation" significantly below what these appropriations would be otherwise. We also estimate that most cities and counties, at least initially, would not be required to reduce the growth in these categories of

appropriations by any significant amounts. However, some local governments, especially those with stable or declining populations, could be subject to more significant restrictions on their "appropriations subject to limitation."

Whether any reduction in "appropriations subject to limitation" caused by this measure would result in corresponding reductions in *total* local government expenditures and a return of excess revenues to the taxpayers would depend on whether increased spending resulted in those categories *not* subject to limitation. We have no basis for estimating the actions of local governments in this regard.

Conclusion Thus, while a reduction in the rate of growth in state or local government expenditures may result from this ballot measure in fiscal year 1980-81, there may be instances in which no reduction in the rate of growth in an individual government's spending occurs. The impact of this measure in subsequent years cannot be estimated, although the measure could cause government spending to be significantly lower than it would be otherwise

For

Arguments in Favor of Proposition 4

The 'Spirit of 13' citizen-sponsored initiative provides permanent constitutional protection for taxpayers from excessive taxation. A 'yes' vote for Proposition 4 will *preserve* the gains made by Proposition 13.

VERY SIMPLY, this measure:

1) WILL limit state and local government spending.

2) WILL refund or credit excess taxes received by the state to the taxpayer.

3) WILL curb excessive user fees imposed by local government.

4) WILL eliminate government waste by forcing politicians to rethink priorities while spending our tax money.

5) WILL close loopholes government bureaucrats have devised to evade the intent of Proposition 13.

ADDITIONALLY, this measure:

1) WILL NOT allow the state government to force programs on local governments without the state paying for them.

2) WILL NOT prevent the state and local governments from responding to emergencies whether natural or economic.

3) WILL NOT prevent state and local governments from providing essential services.

4) WILL NOT allow politicians to make changes (in this law) without voter approval.

5) WILL NOT favor one group of taxpayers over another.

Proposition 4 is a well researched, carefully written citizen-sponsored initiative that is sponsored by the signatures of nearly one million Californians who know that the 'Spirit of 13' is the next logical step to Proposition 13.

Your 'yes' vote will guarantee that excessive state tax surpluses will be returned to the taxpayer, not left in the State Treasury to fund useless and wasteful programs.

This amendment is a reasonable and flexible way to provide discipline in tax spending at the state and local levels and will not override the desires of individual communities -- a majority of *voters* may adjust the spending limits for local entities such as cities, counties, etc. -- it will force return of any additional taxation to voter control. To protect our government's credit rating on behalf of the taxpayers, the limit does not apply to user charges required to meet obligations to the holders of existing or future bonds regardless of voter approval.

For California's sake, we sincerely urge a Yes vote on Proposition 4 to continue the Spirit of Proposition 13.

FOR(au) Paul Gann |t Coauthor, Proposition 13

FOR(au) Carol Hallett |t Member of the Assembly, 29th District, Assembly Minority Leader

For2 No government should have an unrestricted right to spend the taxpayer's money. Government should be subject to fiscal discipline no less than the citizens it represents.

Proposition 4 is a thoughtfully drafted spending limit. It will require state and local governments to limit their budgets yet provide for reasonable growth and meet emergencies.

It will not require wholesale cuts in necessary services. Californians want quality education, health services, police and fire protection.

Our citizens want to provide adequately for the elderly, the disabled, the abandoned children. Such programs will not be impaired.

Government must continue to be sensitive to human needs. A rational spending limit is not only consistent with that view, it is essential if government services are to be rendered effectively.

Nothing hinders the prompt attention to real needs as surely as an inefficient bureaucracy.

We need lean, flexible, responsive government. We need sensible spending controls that will help eliminate waste without sacrificing truly useful programs.

Proposition 4 offers that possibility.

FOR2(au) Leo T. McCarthy |t Member of the Assembly, 18th District, Speaker of the Assembly

Rebuttal **Rebuttal to Arguments in Favor of Proposition 4**

Don't be misled by promises!

The proponents make Proposition 4 sound like a cure-all for every government ill. They make Proposition 4 seem like a magic wand that will transform government into an efficient machine perfectly responsive to the public will. What nonsense!

Proposition 4 . will NOT eliminate government waste; . will NOT eliminate user fees; . will NOT allow governments to respond to emergencies without severe penalty.

What about waste? Proposition 4 puts the power to decide how spending limits will be met right back into the hands of the very same officials who have yet to prove they know how to cut waste. They find it much easier to cut services than to cut fat.

What about fees? The measure itself states that user fees, service charges and admission taxes can still be levied. (Check Sections 3(b) and 8(c)).

What about emergencies? Every time an emergency occurs, future expenditures in other important areas will have to be cut back. It is irresponsible to pit everyday services (like police and fire protection) against the extraordinary needs of an emergency.

Proposition 4 . will NOT guarantee YOU a tax refund; . will NOT preserve needed services; . will NOT allow California to cope with the ravages of inflation and unemployment.

Recession and inflation are ganging up on government *and* on taxpayers. Proposition 4 is too inflexible to assure adequate government services for an uncertain future.

VOTE NO ON PROPOSITION 4!

Rebuttal(au) Jonathan C. Lewis |t Executive Director, California Tax Reform Association

Rebuttal(au) Susan F. Rice |t President, League of Women Voters of California

Rebuttal(au) John F. Henning |t Executive Secretary Treasurer, California Labor Federation AFL-CIO

Against **Argument Against Proposition 4**

Proposition 4 DOES NOT guarantee that the "fat" will be cut from government. Proposition 4 IS NOT tax reform. Proposition 4 is, instead, a rash measure that places a straitjacket on government at the very moment when Californians are faced with an uncertain economic future.

Some of the state's largest businesses, financial institutions, utilities, agribusiness and real estate interests spent $537,000 putting Proposition 4 on the ballot. Doesn't it strike you as strange that these interests are backing a so-called "grassroots" initiative?

All Californians are understandably concerned about rising taxes. We all want efficient government *and* a fair tax system. But who will really benefit from Proposition 4? Will it be *you* or the special interests backing this measure?

Proposition 4 does not guarantee tax relief for the individual. There is no guarantee

that any excess government revenues will necessarily be used to lower *your* taxes. Genuine tax reform means changing the tax system so everyone pays his or her fair share.

During the past 20 years the burden of taxation has shifted from business and commercial interests to the individual taxpayer. The percentage of state and local taxes paid by business has dropped from 57% to only 37%. This partially accounts for the increase in your tax bills.

It is a myth to believe that Proposition 4 will streamline government. Nowhere in the proposal is there a requirement to cut unnecessary or wasteful government spending. The "fat" in government could go untouched while cuts are made in vital and important services.

Passage of this measure could cripple economic growth in California. There will be no advantage for cities and counties to approve new commercial developments. Because of the spending limitation, revenues generated by new commercial development cannot be spent by local entities already at their spending limit. However, services must still be provided to new commercial and housing developments, which will result in a reduction in the level of services already provided to existing residents and businesses. Communities will be forced to choose between creating new jobs and cutting services.

Proposition 4 is smokescreen politics. That is why we ask you to join us in voting NO.

Against(au) Jonathan C. Lewis |t Executive Director, California Tax Reform Association

Against(au) Susan F. Rice |t President, League of Women Voters of California

Against(au) John F. Henning |t Executive Secretary-Treasurer, California Labor Federation, AFL-CIO

Rebut Against **Rebuttal to Argument Against Proposition 4**

The arguments submitted by the groups opposing Proposition 4 should come as no surprise -- particularly to those of us who supported Proposition 13 last year. Scare tactics, distortion and a healthy smattering of "buzzwords" are the same devices used time and again against the people whenever they decide it's time to offer a logical and reasonable solution. In this case, the people simply want to place *a limit on government spending.*

If you are among the people who think government should *not* have the unrestricted right to spend taxpayers money, you can recite these facts to your friends and neighbors.

FACT: In the past 20 years, government spending increased 5 times beyond the allowable limits of Proposition 4.

FACT: Proposition 4 *requires* that surplus funds be returned to the taxpayers.

FACT: Proposition 4 will force politicians to prioritize and economize just as households and small businesses do to make ends meet.

FACT: Proposition 4 is supported by nearly one million voter signatures, the Democratic and Republican leaders of the State Assembly, state cochairperson Secretary of State March Fong Eu, the California Taxpayers' Association, the California Chamber of Commerce, the 83,000 family farm member California Farm Bureau, the 55,000 small business member Federation of Independent Business, local taxpayer associations, and scores of civic and community leaders concerned about the ever-increasing growth of government spending.

Please join us in voting "Yes" on Proposition 4 to maintain the Spirit of 13.

Rebut Against-au Paul Gann |t Coauthor, Proposition 13

Text of Prop. **Text of Proposed Law**

This initiative measure proposes to add a new Article XIII B to the Constitution; therefore, new provisions proposed to be added are printed in *italic type* to indicate that they are new.

PROPOSED ADDITION OF ARTICLE XIII B

PROPOSED ARTICLE XIII B. CONSTITUTION GOVERNMENT SPENDING LIMITATION

SEC. 1. The total annual appropriations subject to limita- tion of the state and of each local government shall not exceed the appropriations limit of such entity of government for the prior year adjusted for changes in the cost of living and popu- lation except as otherwise provided in this Article.

SEC. 2. Revenues received by any entity of government in excess of that amount which is appropriated by such entity in compliance with this Article during the fiscal year shall be returned by a revision of tax rates or fee schedules within the next two subsequent fiscal years.

SEC. 3. The appropriations limit for any fiscal year pursuant to Sec. 1 shall be adjusted as follows:

(a) In the event that the financial responsibility of providing services is transferred in whole or in part, whether by annexation, incorporation or otherwise, from one entity of government to another, then for the year in which such transfer becomes effective the appropriations limit of the transferee entity shag be increased by such reasonable amount as the said entities shall mutually agree and the appropriations limit of the transferor entity shall be decreased by the same amount.

(b) In the event that the financial responsibility of providing services is transferred, in whole or in part, from an entity of government to a private entity, or the financial source for the provision of services is transferred, in whole or in part, from other revenues of an entity of government, to regulatory licenses, user charges or user fees, then for the year of such transfer the appropriations limit of such entity of government shall be decreased accordingly.

(c) In the event of an emergency, the appropriation limit may be exceeded provided that the appropriation limits in the following three years are reduced accordingly to prevent an aggregate increase in appropriations resulting from the emergency.

SEC. 4. The appropriations limit imposed on any new or existing entity of government by this Article may be estab- lished or changed by the electors of such entity, subject to and in conformity with constitutional and statutory voting requirements. The duration of any such change shall be as determined by said electors, but shall in no event exceed four years from the most recent vote of said electors creating or continuing such change.

SEC. 5. Each entity of government may establish such contingency, emergency, unemployment, reserve, retirement, sinking fund, trust, or similar funds as it shall deem reasonable and proper. Contributions to any such fund, to the extent that such contributions are derived from the proceeds of taxes, shall for purposes of this Article constitute appropria- tions subject to limitation in the year of contribution. Neither withdrawals from any such fund, nor expenditures of (or authorizations to expend) such withdrawals, nor transfers between or among such funds, shall for purposes of this Article constitute appropriations subject to limitation.

SEC. 6. Whenever the Legislature or any state agency mandates a new program or higher level of service on any local government, the state shall provide a subvention of funds to reimburse such local government for the costs of such program or increased level of service except that the Legislature may, but need not, provide such subvention of funds for the following mandates:

(a) Legislative mandates requested by the local agency affected;

(b) Legislation defining a new crime or changing an existing definition of a crime; or

(c) Legislative mandates enacted prior to January 1, 1975, or executive orders or regulations initially implementing legislation enacted prior to January 1, 1975.

SEC 7. Nothing in this Article shall be construed to impair the ability of the state or of any local government to meet its obligations with respect to existing or future bonded indebt- edness.

SEC. 8. As used in this Article and except as otherwise expressly provided herein:

(a) "Appropriations subject to limitation" of the state shall mean any authorization to expend during a fiscal year the proceeds of taxes levied by or for the state, exclusive of state subventions for the use and operation of local government (other than subventions made pursuant to Section 6 of this Article) and further exclusive of refunds of taxes, benefit payments from retirement, unemployment insurance and disability insurance funds;

(b) "Appropriations subject to limitation" of an entity of local government shall mean any authorization to expend during a fiscal year the proceeds of taxes levied by or

for that entity and the proceeds of state subventions to that entity (other than subventions made pursuant to Section 6 of this Article) exclusive of refunds of taxes;

(c) "Proceeds of taxes" shall include but not be restricted to, all tax revenues and the proceeds to an entity of government, from (i) regulatory licenses, user charges, and user fees to the extent that such proceeds exceed the costs reasonably borne by such entity in providing the regulation, product, or service, and (ii) the investment of tax revenues. With respect to any local government, "proceeds of taxes" shall include subventions received from the state, other than pursuant to Section 6 of this Article, and, with respect to the state, pro- ceeds of taxes shall exclude such subventions;

(d) "Local government" shall mean any city, county, city and county, school district, special district, authority, or other political subdivision of or within the state;

(e) "Cost of living" shall mean the Consumer Price Index for the United States as reported by the United States Department of Labor, or successor agency of the United States Government; provided, however, that for purposes of Section 1, the change in cost of living from the preceding year shall in no event exceed the change in California per capita personal income from said preceding year;

(f) "Population" of any entity of government, other than a school district shall be determined by a method prescribed by the Legislature, provided that such determination shall be revised, as necessary, to reflect the periodic census conducted by the United States Department of Commerce, or successor agency of the United States Government. The population of any school district shall be such school district's average daily attendance as determined by a method prescribed by the Legislature;

(g) "Debt service" shall mean appropriations required to pay the cost of interest and redemption charges, including the funding of any reserve or sinking fund required in connection therewith, on indebtedness existing or legally authorized as of January 1, 1979 or on bonded indebtedness thereafter approved according to law by a vote of the electors of the issuing entity voting in an election for such purpose.

(h) The "appropriations limit" of each entity of government for each fiscal year shall be that amount which total annual appropriations subject to limitation may not exceed under Section 1 and Section 3; provided, however, that the "appropriations limit" of each entity of government for fiscal year 1978-79 shall be the total of the appropriations subject to limitation of such entity for that fiscal year. For fiscal year 1978-79, state subventions to local governments, exclusive of federal grants, shall be deemed to have been derived from the proceeds of state taxes.

(i) Except as otherwise provided in Section 5, "appropriations subject to limitation" shall not include local agency loan funds or indebtedness funds, investment (or authorizations to invest) funds of the state, or of an entity of local government in accounts at banks or savings and loan associations or in liquid securities.

SEC. 9. "Appropriations subject to limitation" for each entity of government shall not include:

(a) Debt service.

(b) Appropriations required for purposes of complying with mandates of the courts or the federal government which, without discretion, require an expenditure for additional services or which unavoidably make the providing of existing services more costly.

(c) Appropriations of any special district which existed on January 1, 1978, and which did not as of the 1977-78 fiscal year levy an ad valorem tax on property in excess of 12 1/2 cents per $100 of assessed value; or the appropriations of any special district then existing or thereafter created by a vote of the people, which is totally funded by other than the proceeds taxes.

SEC. 10. This Article shall be effective commencing with the first day of the fiscal year following its adoption.

SEC. 11. If any appropriation category shall be added to or removed from appropriations subject to limitation, pursuant to final judgment of any court of competent jurisdiction and any appeal therefrom, the appropriations limit shall be adjusted accordingly. If any section, part, clause or phrase in this Article is for any reason held in valid or unconstitutional, the remaining portions of this Article shall not be affected but shall remain in full force and effect.

CODE Added Cal. Const. art. XIIIB

Case San Francisco Taxpayers Ass'n v. Board of Supervisors. 2 Cal. 4th 571 (1992).

Case County of Fresno v. State. 53 Cal. 3d 482 (1991).

Case Kinlaw v. State. 54 Cal. 3d 326 (1991).

Case City of Sacramento v. State. 50 Cal. 3d 51 (1990).

Case Hunington Park Redevelopment Agency v. Martin. 38 Cal. 3d 100 (1985).

Case California Teachers Ass'n v. Hayes. 5 Cal. App. 4th 1513 (1992).

Case Hayes v. Commission on State Mandates. 11 Cal. App. 4th 1564 (1992).

Case County of Fresno v. Lehman. 229 Cal. App. 3d 340 (1991).

Case County of Fresno v. State. 228 Cal. App. 3d 875 (1990).

Case County of San Bernadino v. State. 227 Cal. App. 3d 1115 (1990).

Case Kinlaw v. State. 227 Cal. App. 3d 974 (1990).

Case Long Beach Unified Sch. Dist. v. State. 225 Cal. App. 3d 155 (1990).

Case San Francisco Taxpayers Ass'n v. Board of Supervisors. 2 Cal. App. 4th 1159 (1990).

Case County of Los Angeles v. Department of Indus. Rels.. 214 Cal. App. 3d 1538 (1989).

Case Santa Barbara County Taxpayers Ass'n v. Board of Supervisors of Santa Barbara. 209 Cal. App. 3d 940 (1989).

Case City of Sacramento v. State. 214 Cal. App. 3d 1184 (1988).

Case Santa Barbara County Taxpayer's Ass'n v. County of Santa Barbara. 194 Cal. App. 3d 674 (1987).

Case County of Contra Costa v. State. 177 Cal. App. 3d 62 (1986).

Case City of Sacramento v. State. 156 Cal. App. 3d 182 (1984).

Case County of Los Angeles v. State. 153 Cal. App. 3d 568 (1984).

Case City Council of San Jose v. State. 146 Cal. App. 3d 320 (1983).

Case City Council of San Jose v. South. 136 Cal. App. 3d 334 (1982).

Case	Metropolitan Water Dist. of S. Cal. v. Dorff. 138 Cal. App. 3d 388 (1982).
Case	County of Placer v. Corin. 113 Cal. App. 3d 443 (1980).

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Highlighted Table | Text of Proposition | Arguments

Full Text

Record: 833

Proposition #	37
Title	**State Lottery.**
Year/Election	**1984** general
Proposition type	initiative constitutional and statutory
Popular vote	Yes: 5,398,096 (57.9%); No: 3,924,346 (42.1%)
Pass/Fail	Pass
Summary	Amends Constitution to authorize establishment of a state lottery and to prohibit casinos. Adds statutes providing for establishment of a state-operated lottery. Of the total lottery revenues, requires that 50% be returned as prizes, not more than 16% be used for expenses, and at least 34% be used for public education. Requires that equal per capita amounts of the funds for education be distributed to kindergarten-through-12 districts, community college districts, State University and Colleges, and University of California. Contains numerous specific provisions concerning the operation and administration of lotteries and funds. Summary of Legislative Analyst's estimate of net state and local government fiscal impact: The effect of this measure on state revenues cannot be predicted with certainty. Once full range of games is operational, estimated yield would be about $500 million annually for public education. Yield for first two years would be less. Estimated 80% of yield would go to K-12 schools, 13% to community colleges, 5% to California State University, and 2% to University of California.

Analysis

Analysis by the Legislative Analyst

Background

The California Constitution currently prohibits lotteries or the sale of any lottery tickets within the state. Government-sponsored lotteries, however, are conducted in 17 other states and in the District of Columbia. In 1983-84, lottery ticket sales in these 18 jurisdictions amounted to over $6.6 billion. Approximately 40 percent of this amount was retained by the sponsoring governments and used to help finance public expenditures.

There are many different types of lottery games which can be played. However, practically all of the government-sponsored lotteries in the United States rely upon three types of lottery games:

1. Instant Games. All of the lottery states except one operate "instant games," in which a bettor purchases a lottery ticket and can immediately determine if he or she has

won a prize by scratching off a coating on the ticket. Instant games account for 18 percent of total lottery sales in the 12 larger states.

2. Numbers Games. This is the dominant form of lottery games in most eastern and midwestern states. In this game, a bettor chooses a group of numbers, say three or four, and then compares them to the winning numbers which typically are announced daily. Numbers games account for 55 percent of total lottery sales in the 12 larger states.

3. Lotto. By the fall of 1984, most of the lottery states will make lotto available to bettors. This is the newest and fastest-growing form of lottery games. In this game, a bettor selects a group of numbers from a larger group of numbers. For example, the bettor may select six numbers from a field of 36 or 40. Subsequently, a drawing is held, usually on a weekly basis, to determine the winning combination. If no bettor had selected the winning numbers drawn, as often is the case, the prize money is added to the purse for the next week's game. Lotto sales account for 27 percent of all lottery sales in the 12 larger states.

Proposal

This measure would amend the California Constitution to authorize the establishment of a statewide lottery in California. In addition, the measure would amend the Constitution to prohibit in California gambling casinos of the type that exist in Nevada and New Jersey. (Casino gambling currently is prohibited within the state by a statute, but not by the Constitution.)

State Lottery Commission. The measure also would enact an initiative statute to establish a California State Lottery Commission and give it broad powers to oversee the operations of the statewide lottery. The commission would be responsible for determining the types of lotteries to be held, the frequency of lottery drawings, the price of lottery tickets, the number and amount of lottery prizes, and the locations where lottery tickets may be sold.

The commission would have five members who, along with a lottery director, would be appointed by the Governor and confirmed by the California Senate. The measure would require that at least one of the five commissioners have a background in law enforcement, and that at least one be a certified public accountant. No more than three of the five commissioners could be members of the same political party.

The commission would be required to make quarterly reports on the performance of the lottery. The director would be required to arrange for studies of how the lottery could be operated most effectively, who participates in the lottery, and the best means of promoting the lottery so as to maximize lottery revenues.

Implementation. The commission would be required to begin public sale of lottery tickets no later than 135 days after the effective date of this measure (that is, by April 1985). Lottery tickets could be purchased only by individuals aged 18 years or older. The measure would provide the commission with a $16.5 million temporary line of credit from the General Fund to cover the start-up costs associated with a state lottery. The commission could draw on this line of credit during the 12 months following the effective date of the measure. The commission would have to repay any

borrowed funds, with interest at an annual rate of 10 percent, within 12 months of receiving the funds.

Allocation of the Proceeds From Lottery Sales. The measure would require that 50 percent of the proceeds from lottery ticket sales be paid out as lottery *prizes,* and that no more than 16 percent be used for *administrative costs* (including commissions to sellers of lottery tickets). The lottery prizes would be exempt from state (but not federal) income taxes. The remainder of the proceeds from ticket sales -- at least 34 percent of the total -- would be placed into a new special fund from which moneys would be appropriated for the benefit of *public education.* Any unclaimed lottery prizes and unused funds available for administrative costs would also be placed into this fund.

The measure requires that the funds made available for public education be divided among the following four categories of public education: kindergarten through twelfth grade (K-12), community colleges, the California State University, and the University of California. The funds would be distributed on a "per capita" basis. This probably would be interpreted in terms of average daily attendance or full-time equivalent enrollment. The measure states the intent that the funds made available for public education are to be used to *augment* (rather than substitute for) funds already allocated for public education in California, and that the funds are to be spent exclusively for *instructional* purposes.

Fiscal Effect

The effect of this measure on state revenues cannot be predicted with certainty. It would depend upon:

1. Which lottery games the commission decides to operate;

2. The amount of time it takes for each of these games to become operational; and

3. The volume of lottery sales in California for each type of game.

Based on the experience of other states -- especially other western states -- we estimate that lottery sales in California would be about $50 per capita, *once a full range of lottery games is operational.* (This is less than the average sales per capita in the east and midwest where, unlike California, numbers games have been popular for decades.) This per capita volume of sales would yield $500 million in annual revenues for public education in California.

The additional revenues produced by a state lottery in 1984-85 and 1985-86 would be less than $500 million per year, for two reasons. First, if approved by the voters, the lottery would be operational for less than a full year in 1984-85. Second, it would take time to fully implement an array of lottery games and realize their revenue potential. Consequently, the full ongoing revenue impact of the measure probably would not be felt until 1986-87.

Under the measure, we estimate that approximately 80 percent of the state's share of the lottery revenues would go to K-12 schools, 13 percent would go to community colleges, 5 percent would go to the California State University, and 2 percent would go

to the University of California.

For **Argument in Favor of Proposition 37**

The California State Lottery will provide hundreds of millions of ADDITIONAL DOLLARS FOR PUBLIC EDUCATION without raising taxes a penny!

. Proposition 37 GUARANTEES BY LAW that lottery revenue must SUPPLEMENT REGULAR EDUCATIONAL FUNDING.

. LOCAL CONTROL is assured. No state bureaucrat can tell local school boards how to spend the money, except that it MUST BE SPENT FOR EDUCATIONAL PURPOSES -- not for real estate, building construction or research.

. Lottery revenue goes directly into a special fund to benefit education, BYPASSING THE LEGISLATURE, Governor and bureaucracy.

. The State Controller sends lottery revenue DIRECTLY to local school boards and the governing boards of community colleges, the California State University system and the University of California.

First-year ticket sales are estimated at $1.7 billion, divided as follows:

. A total of $680 million -- 40 percent -- could go to public education. Education receives a minimum of 34 percent, plus all unredeemed prize money and anticipated operating savings.

. $850 million -- 50 percent -- will go for prizes that will be divided among millions of winners. And all those prizewinners will spend millions in California, meaning ADDITIONAL JOBS for our residents AND BUSINESS for our employers.

. $85 million will be paid to retailers as commissions for the sale of lottery tickets, also benefiting California's economy.

Proposition 37 guarantees the lottery will be RUN HONESTLY and CONTROLLED TIGHTLY. All money received and prizes paid will be carefully accounted for on a daily basis, checked and rechecked by the most modern methods, and be subject to strict state and outside audits.

Anyone employed by the lottery, supplying goods or services or selling tickets will be thoroughly investigated after mandatory full disclosure.

Coupled with other requirements that are tougher than any in the nation, Proposition 37 assures that the California Lottery will continue the perfect record established by the other 17 state lotteries, of TOTAL FREEDOM FROM ORGANIZED CRIME INFILTRATION. It also adds a new CONSTITUTIONAL PROHIBITION AGAINST CASINO GAMBLING.

Lotteries are fun -- and voluntary. There are many lottery games; some have instant winners, others have periodic drawings. The Lottery Commission has the

flexibility to conduct a variety of lottery games using any technology, including traditional tickets, on-line computers, and instant game video terminals (which can't dispense cash or have fruit symbols like a slot machine).

In typical games, there can be SEVERAL MILLION WINNERS -- with prizes ranging from $2 upward to many millions.

The games will be operated only through established retail outlets, such as supermarkets, convenience stores and liquor stores.

Lotteries are PLAYED PREDOMINANTLY BY MIDDLE-INCOME PEOPLE. Numerous studies disprove claims that the poor buy more than their proportion of tickets; actually, they buy less! And NO TICKETS MAY BE SOLD, OR PRIZES AWARDED, TO ANYONE UNDER 18.

State lotteries have been in existence for over 20 years. They now operate in 17 states (including Washington, Colorado and Arizona) which comprise nearly half of the country's population. Their unparalleled success dispels the unsupported criticisms which may occasionally appear.

The lottery won't solve all of education's financial problems. But it will be a big help!

FOR(au) Gail N. Boyle |t President, San Diego Teachers Association

FOR(au) Nancy J. Brasmer |t President, California School Employees Association

FOR(au) Ed Foglia |t Immediate Past President, California Teachers Association Former Chairman, NEA National Tax Limitations Task Force

Rebuttal **Rebuttal to Argument in Favor of Proposition 37**

Don't be taken in -- vote NO on Proposition 37.

Proposition 37 won't solve our education problems. It is nothing but a cynical attempt to put money into the pockets of its promoters -- big eastern gambling interests.

No wonder Governor George Deukmejian, Lieutenant Governor Leo McCarthy, the PTA, the California Church Council, the California Police Chiefs Association, the Sheriffs of Los Angeles, San Diego, Alameda and Fresno Counties, and other responsible community leaders and organizations throughout the state all say NO on Proposition 37.

The facts add up to a clear NO vote on Proposition 37:

. Proposition 37 provides no tax relief.

. Local governments who face increased crime problems and no additional revenue will actually lose money dealing with problems created by the lottery.

. There is no real guarantee that the schools will end up with any additional money for long-term needs.

. Proposition 37 provides no guarantee against wasting government's share of the lottery proceeds.

. The lottery is an unstable source of funds, unreliable for improvement of regular educational programs.

. The lottery will add another layer of bureaucracy to state government.

. Only the big eastern gambling interests promoting the lottery scheme stand to come out ahead in the end.

Proposition 37 isn't a game; it's a new, hidden and expensive tax which will take an estimated $1.5 billion a year out of the pockets of California citizens.

If Proposition 37 becomes law, the people of California will be the big losers. Please vote NO on Proposition 37.

Rebuttal(au) John Van De Kamp |t Attorney General

Rebuttal(au) Robert Presley |t State Senator, 36th District Chairman, Senate Select Committee on Children and Youth

Rebuttal(au) Bobette C. Bennett |t President, California State Parent-Teacher Association

Against **Argument Against Proposition 37**

Proposition 37 will open up California to a statewide lottery scheme.

All Californians who want the best for our state should *vote no.*

"You're seven times more likely to be killed by lightning than to win a million in the state lottery," according to a Harper's magazine article last year. Proposition 37 provides that only 50 cents for every dollar bet will return to the few lucky bettors in winnings.

It is a new and expensive tax. It will cost more than ten times what other taxes cost to collect. For every dollar in state revenue that Proposition 37 would raise, nearly 50 cents would end up in the hands of its promoters.

Who are its promoters?

The lottery's chief financial backer has been Scientific Games, a subsidiary of the East Coast-based Bally Corporation, the nation's leading slot machine manufacturer. For the lottery's campaign purposes, its backers and promoters are masking themselves as "Californians for Better Education." They want you to believe that Proposition 37's dedication of receipts to education will be a major boost for schools.

You should know that, assuming the rosiest predictions of its promoters, the lottery will add no more than around 5 percent for the present educational budget in the entire state in its first year. In successive years, just as now, increased educational funding will continue to be the responsibility of the Legislature and the Governor.

Other states have found that lotteries are not a stable, long-term funding source for

education. This is why leading groups who care about education, like the PTA, oppose this measure.

Here are other reasons why you should vote *NO* on Proposition 37:

. Experience in other states shows that lotteries breed more crime problems for communities. Illegal numbers operations piggyback on state lotteries because these illegal operations can offer credit, tax secrecy and better odds.

. A lottery has been described as a regressive tax. Studies indicate that, while lottery betting is not limited to any economic class, there is no structure to achieve equity between different levels of income as there is with the progressive income tax.

. Lottery sales outlets will be located at thousands of bars, convenience stores and locations around the state. Anyone 18 years of age or older will be allowed to purchase tickets. Such activity can hardly benefit our communities.

Proposition 37 is not the solution to education funding. Neither schools nor the public will get rich from this scheme. Its promoters are the only ones who have a sure thing. They'll be enriched and the public will pay.

Republicans, Democrats, civic leaders and responsible community leaders appeal to your common sense and urge a *no vote* on Proposition 37.

Against(au) John Van De Kamp |t Attorney General

Against(au) Robert Presley |t State Senator, 36th District Chairman, Senate Select Committee on Children and Youth

Against(au) Bobette C. Bennett |t President, California State Parent-Teacher Association

Rebut Against **Rebuttal to Argument Against Proposition 37**

The argument against Proposition 37 is appalling in its false statements. For example, it calls the proposed state lottery a "new and expensive tax." The LOTTERY IS NOT A TAX and our opponents know it! Lotteries are played ONLY BY THOSE WHO WANT TO.

Contrary to our opponents' falsehoods:

. No lottery revenue would go to the state.

. EVERY PENNY OF LOTTERY PROFIT would go to PUBLIC EDUCATION.

Opponents claim "nearly half" of the lottery revenue goes to private "promoters." How can this be? The measure requires at least 84 percent go to prizes and education.

Also, the act prohibits private operators from running the lottery. Only the State of California could operate and control the lottery.

They belittle the amount that would go to public education. But the people who teach our children don't belittle $680 MILLION or more a year! They know how much it could help!

Contrary to opponents claims, lotteries in other states provide a stable and growing source of income. In 20 years, sales have zoomed from $5 million to more than $6 BILLION.

Their claims that organized crime would invade California are ridiculous. Not one incident of organized crime infiltrating a state-operated lottery has ever occurred.

Seventeen state-operated lotteries are successful beyond expectations and are more popular now than when they began.

Californians WANT THE LOTTERY.

California public education would BENEFIT FROM IT.

The false criticisms by opposing politicians won't change those facts!

Vote YES on PROPOSITION 37!

Rebut Against-au Reverend George Walker Smith |t Pastor, Christ United Presbyterian Church San Diego, California Past President, National School Boards Association

Rebut Against-au Chief Joseph D. McNamera |t Police Chief, City of San Jose

Rebut Against-au Harold S. Dobbs |t Attorney at Law Former Supervisor, City and County of San Francisco

Text of Prop. **Text of Proposed Law**

This initiative measure is submitted to the people in accordance with the provisions of Article II, Section 8 of the Constitution.

This initiative measure expressly amends existing provisions of the Constitution, and adds provisions to the Government Code; therefore, provisions proposed to be deleted are printed in ~~strikeout type~~ and new provisions proposed to be added are printed in *italic type* to indicate that they are new.

PROPOSED LAW

SEC. 1. *This amendment shall be known as "The California State Lottery Act of 1984."*

SEC. 2. The Constitution of the state is amending Section 19 of Article IV thereof, as follows:

SEC. 19. (a) The Legislature has no power to authorize lotteries and shall prohibit the sale of lottery tickets in the State.

(b) The Legislature may provide for the regulation of horse races and horse race meetings and wagering on the results.

(c) Notwithstanding subdivision (a)~~,~~ the Legislature by statute may authorize cities

and counties to provide for bingo games, but only for charitable purposes.

(d) Notwithstanding subdivision (a), there is authorized the establishment of a California State Lottery.

(e) The Legislature has no power to authorize, and shall prohibit casinos of the type currently operating in Nevada and New Jersey.

SEC. 3. Chapter 12.5 of Division 1 of Title 2 is added to the Government Code, to read:

Article 1

General Provisions and Definitions

8880 Citation of Chapter

This Chapter shall be known and may be cited as the California State Lottery Act of 1984.

8880.1 Purpose and Intent

The People of the State of California declare that the purpose of this Act is support for preservation of the rights, liberties and welfare of the people by providing additional monies to benefit education without the imposition of additional or increased taxes.

The People of the State of California further declare that it is their intent that the net revenues of the California State Lottery shall not be used as substitute funds but rather shall supplement the total amount of money allocated for public education in California.

8880.2 Activities Not Affected

Except for the state-operated lottery established by this Chapter, nothing in this Chapter shall be construed to repeal or modify existing State law with respect to the prohibition of casino gambling, punch boards, slot machines, dog racing, video poker or blackjack machines paying prizes, or any other forms of gambling.

8880.3 Prohibition on Use of State Funds

No appropriations, loans, or other transfer of State funds shall be made to the California State Lottery Commission except for a temporary line of credit for initial start-up costs as provided in this Act.

8880.4 Allocation of Revenues

Not less than 84% of the total annual revenues from the sale of state lottery tickets or shares shall be returned to the public in the form of prizes and net revenues to benefit public education. 50% of the total annual revenues shall be returned to the public in the

form of prizes as described in this Chapter and at least 34% shall be allocated to the benefit of public education as specified in 8880.5. In addition, all unclaimed prize money shall revert to the benefit of public education as provided for in 8880.32 (e). No more than 16% of the total annual revenues shall be allocated for payment of expenses of the Lottery as described in this Chapter. To the extent that expenses of the Lottery are less than 16% of the total annual revenues, any surplus funds shall also be allocated to the benefit of pubic education as specified in 8880.5.

8880.5 Allocation for Education

The California State Lottery Education Fund is created within the State Treasury, and is continuously appropriated for carrying out the purposes of this Chapter. The State Controller shall draw warrants on this fund and distribute them periodically in the following manner, provided that the payments specified in subsections (a), (b), (c), and (d) shall be equal per capita amounts:

(a) Payments shall be made directly to public school districts serving grades kindergarten through 12, or any-part thereof, on the basis of an equal amount for each unit of average daily attendance, as defined by law.

(b) Payments shall also be made directly to the public school districts serving community colleges, on the basis of an equal amount for each unit of average daily attendance, as defined.

(c) Payments shall also be made directly to the Board of Trustees of the California State University and Colleges on the basis of an amount for each unit of equivalent full-time enrollment.

(d) Payments shall also be made directly to the Regents of the University of California on the basis of an amount for each unit of equivalent full-time enrollment.

It is the intent of this Chapter that all funds allocated from the California State Lottery Education Fund shall be used exclusively for the education of pupils and students and no funds shall be spent for acquisition of real property, construction of facilities, financing of research or any other non-instructional purpose.

8880.6 Other Statutory Provisions

It is specifically found that Penal Code Sections 320, 321, 322, 323, 324, 325, 326, and 328 shall not apply to the California State Lottery or its operations.

8880.7 Governing Definitions

The definitions contained in this Chapter shall govern the construction of this Chapter unless the context requires otherwise.

8880.8 "Lottery" or "California State Lottery"

"Lottery" or "California State Lottery" means the California State Lottery created and operated pursuant to this Chapter.

8880.9 "Commissioner"

"Commissioner" means one of the members of the Lottery Commission appointed by the Governor pursuant to this Chapter to oversee the California State Lottery.

8880.10 "Director"

"Director" means the Director of the California State Lottery appointed by the Governor pursuant to this Chapter as the chief administrator of the California State Lottery.

8880.11 "Lottery Commission" or "Commission"

"Lottery Commission" or "Commission" means the five members appointed by the Governor pursuant to this Chapter to oversee the Lottery and the Director.

8880.12 "Lottery Game"

"Lottery Game" means any procedure authorized by the Commission whereby prizes are distributed among persons who have paid, or unconditionally agreed to pay, for tickets or shares which provide the opportunity to win such prizes.

8880.13 "Lottery Game Retailer"

"Lottery Game Retailer" means a person with whom the Lottery Commission may contract for the purpose of selling tickets or shares in lottery games to the public.

8880.14 "Lottery Contractor"

"Lottery Contractor" means a person with whom the Lottery has contracted for the purpose of providing goods and services required by the Lottery.

Article 2

California State Lottery Commission

8880.15 Creation of Commission

The California State Lottery Commission is hereby created in state government.

8880.16 Membership; Appointment; Vacancies; Political Affiliation; Removal

(a) The Commission shall consist of five members appointed by the Governor with the advice and consent of the Senate.

(b) The members shall be appointed for terms of five years, except of those who are first appointed, one member shall be appointed for a term of two years, one member shall be appointed for a term of three years, one member shall be appointed for a term of four years, and two member shall be appointed for a term of five years.

(c) All initial appointments shall be made within 30 days of the effective date of this Chapter.

(d) Vacancies shall be filed within 30 days by the Governor, subject to the advice and consent of the Senate, for the unexpired portion of the term in which they occur.

(e) No more than three members of the Commission shall be members of the same political party.

(f) The Governor may remove any Commissioner upon notification to the Commission and the Secretary of State.

8880.17 Qualifications of Commissioners

At least one of the Commissioners shall have a minimum of five years experience in law enforcement, and at least one of the Commissioners shall be a certified public accountant.

8880.18 Compensation and Expenses

Commissioners shall be compensated at the rate of one hundred dollars ($100) for each day they are engaged in Commission business. Commission members shall be reimbursed for actual expenses incurred on Commission business, including necessary travel expenses as determined by the State Board of Control.

8880.19 Annual Selection of Chairman

The Commission shall select annually from its membership a Chairman. The Chairman shall have the power to convene special meetings of the Commission upon forty-eight hours written notice to members of the Commission.

8880.20 Meetings

Meetings of the Commission shall be open and public in accordance with the Bagley-Keene Open Meeting Act, commencing with Section 11120 of Chapter 1 of Part 1 of Division of this title.

8880.21 Quorum; Voting

A quorum shall consist of a majority of the members of the Commission then in office. All of the decisions of the Commission shall be made by a majority vote of the Commissioners present, providing a quorum is present.

8880.22 Reports

The Commission shall make quarterly reports of the operation of the Lottery to the Governor, Attorney General, State Controller, State Treasurer, and the Legislature. Such reports shall include a full and complete statement of Lottery revenues, prizes disbursements, expenses, net revenues, and all other financial transactions involving Lottery funds.

8880.23 Appointment of Director; Removal

The Governor, with the advice and consent of the Senate, shall appoint a Director within thirty days of the effective day of this Chapter. The Governor may remove the Director upon notification to the Commission and Secretary of State. The Director shall be responsible for management the affairs of the Commission. The Director Shall be qualified by training and experience to direct the operations of a state-operated lottery.

Article 3

Powers and Duties of the Commission

8880.24 Powers and Duties of the Commission

The Commission shall exercise all powers necessary to effectuate the purposes of this Chapter. In all decisions, the Commission shall take into account the particularly sensitive nature of the California State Lottery and shall act to promote and ensure integrity, security, honesty, and fairness in the operation and administration of the Lottery.

8880.25 Initiation and Operation of the Lottery

The Commission shall initiate operation of the Lottery on a continuous basis at the earliest and practical time. Public sales of tickets or shares shall begin no later than 135 days after the effective date of this Chapter. The Lottery shall be initiated and operated so as to produce the maximum amount of net revenues to benefit the public purpose described in this Chapter.

8880.26 Exemption from Review by the Office of Administrative Law

The provisions of Chapter 3.5 of Part 1 of Division 3 of Title 2 of the Government Code shall not be applicable to any rule or regulation promulgated by the Commission in accordance with the provisions of this Chapter.

8880.27 Meetings with the Director

The Commission shall meet with the Director not less than once each quarter to make recommendations and set policy, to approve or reject reports of the Director and transact such other business that may be properly brought before it.

8880.28 Limitations on Types of Lottery Games

The Commission shall promulgate rules and regulations specifying the types of Lottery Games to be conducted by the Lottery, provided:

(a) No Lottery Game may use the theme of bingo, roulette, dice, baccarat, blackjack, Lucky 7's, draw poker, slot machines, dog racing, or horse racing.

(b) In Lottery Games utilizing tickets, each ticket in such games shall bear a unique number distinguishing it from every other ticket in such game; and no name of an

elected official shall appear on such tickets.

(c) In games utilizing computer terminals or other devices, no coins or currency shall be dispensed to players from such computer terminals or devices.

8880.29 Number and Value of Prizes

The Commission shall promulgate rules and regulations which specify the number and value of prizes for winning tickets or shares in each Lottery Game including, without limitation, cash prizes, merchandise prizes, prizes consisting of deferred payments or annuities, and prizes of tickets or shares in the same Lottery Game or other games conducted by the Lottery, provided:

(a) In Lottery Games utilizing tickets, the overall estimated odds of winning some prize or some cash prize as appropriate for such Lottery Game shall be printed on each ticket.

(b) A detailed tabulation of the estimated number of prizes of each particular prize denomination that are expected to be awarded in each Lottery Game, or the estimated odds of winning such prizes, shall be available at each location at which tickets or shares in such Lottery Games are offered for sale to the public.

8880.30 Method for Determining Winners

The Commission shall promulgate rules and regulations which specify the method for determining winners in each Lottery Game, provided:

(a) No Lottery Game shall be based on the results of a horse race.

(b) If a Lottery Game utilizes a drawing of winning numbers, a drawing among entries, or a drawing among finalists, such drawings shall always be open to the public; such drawings shall not be conducted by any employee of the Lottery; such drawings shall be witnessed by an independent certified public accountant; any equipment used in such drawings must be inspected by the independent certified public accountant and an employee of the Lottery both before and after such drawings; and such drawings and such inspections shall be recorded on both video and audio tape.

(c) It is the intent of this Chapter that the Commission may use any of a variety of existing or future methods or technologies in determining winners.

8880.31 Sale Price of Tickets and Shares

The Commission shall promulgate rules and regulations specifying the retail sales for each ticket or share for each Lottery Game, provided:

(a) No ticket or share shall be sold for more than the retail sales price established by the Commission.

(b) The retail price of each ticket or share in any Lottery Game conducted by the Lottery shall be at least one dollar, except to the extent of any discounts authorized by

the Commission.

8880.32 Validation and Payment of Prizes

The Commission shall promulgate rules and regulations to establish a system verifying the validity of prizes and to effect payment of such prizes provided:

(a) For convenience of the public, Lottery Game Retailers may be authorized by the Commission to pay winners of up to $600 after performing validation procedures on their premises appropriate to the Lottery Game involved.

(b) No prize my be paid arising from tickets or shares that are stolen, counterfeit, altered, fraudulent, unissued, produced or issued in error, unreadable, not received or not recorded by the Lottery by applicable deadlines, lacking in captions that confirm and agree with the lottery play symbols required by the Lottery Game involved, or not in compliance with such additional specific rules and regulations and confidential validation and security tests appropriate to the particular Lottery Game.

(c) No particular prize in any Lottery Game may be paid more than once, and in the event of a binding determination that more than one claimant is entitled to a particular prize, the sole remedy of such claimants is the award to each of them of an equal share in the prize.

(d) The Commission may specify that winners of less than $25 claim such prizes from either the same Lottery Game Retailer from whom it was purchased or from the Lottery itself.

(e) Players shall have the right to claim prize money for 180 days after the drawing or the end of the lottery game or play in which the prize was won. The Commission may define shorter time periods for eligibility for participation in, and entry into, drawings involving entries or finalists. If a valid claim is not made for a prize directly payable by the Lottery Commission within the period applicable for that prize, the unclaimed prize money shall revert to the benefit of the public purpose described in this Chapter.

(f) After the expiration of the claim period for prizes for each Lottery Game, the Commission shall make available a detailed tabulation of the total number of tickets or shares actually sold in a Lottery Game and the total number of prizes of each prize denomination that were actually claimed and paid directly by the Lottery Commission.

(g) The right of any person to a prize shall not be assignable, except that payment of any prize may be paid to the estate of a deceased prize winner or to a person designated pursuant to an appropriate judicial order. The Director, Commission, and State shall be discharged of all further liability upon such payment of a prize pursuant to this subsection.

(h) A ticket or share shall not be purchased by, and a prize shall not be paid to, a member of the Commission or to any officer or employee of the Commission or to any spouse, child, brother, sister, or parent of such person.

(i) No prize shall be paid to any person under the age of 18.

8880.33 Distribution of Tickets and Shares

The Commission shall promulgate rules and regulations specifying the manner of distribution, dissemination or sales of lottery tickets or shares to Lottery Game Retailers or directly to the public, and the incentives, if any, for Lottery employees, if any, engaged in such distribution activities.

ARTICLE 4

Powers and Duties of the Director

8880.34 Salary

The Director shall be compensated at the rate as provided for in Government Code 11550.5. The Director shall devote his entire time and attention to the duties of his office and shall not be engaged in any other profession or occupation.

8880.35 Duties, Powers, and Jurisdiction

The Director shall, subject to the approval of the Commission, perform all duties, exercise all powers and jurisdiction, assume and discharge all responsibilities, and carry out and effect all purposes of this Chapter. The Director shall act as Secretary of the Commission and Executive Officer of the Lottery. The Director shall supervise and administer the operation of the Lottery in accordance with this Chapter and the rules and regulations promulgated by the Commission. In all decisions, the Director shall take into account the particularly sensitive nature of the California State Lottery and shall act to promote and ensure integrity, security, honesty, and fairness of the operation and administration of the Lottery.

8880.36 Power to Hire

The Director shall hire, pursuant to the approval of the Commission, such professional, clerical, technical and administrative personnel as may be necessary to carry out the provisions of this Chapter.

8880.37 Deputy Directors

For the purpose of fulfilling his responsibilities, the Director may appoint and prescribe the duties of no more than four deputy directors as he deems necessary. Each deputy director shall be a civil executive officer. The Commission shall determine the compensation of each deputy director. The Director shall supervise each deputy director's functions and activities.

8880.38 Deputy Director for Security

One of the deputy directors shall be responsible for a security division to assure integrity, honesty, and fairness in the operation and administration of the California State Lottery, including but not limited to, an examination of the qualifications of all

prospective employees, Lottery Game Retailers, and Lottery suppliers as defined in 8880.57. The Deputy Director for Security shall be qualified by training and experience, including at least 5 years of law enforcement experience, and shall have knowledge and experience in computer security, to fulfill these responsibilities. The Deputy Director for Security shall confer with the Attorney General or his designee as the Deputy Director for Security deems necessary and advisable to promote and ensure integrity, security, honesty, and fairness of the operation and administration of the Lottery. The Deputy Director for Security shall report any alleged violation of law to the appropriate law enforcement agency for further investigation and action.

8880.39 Coordination with Commission

The Director shall confer as frequently as necessary or desirable, but not less than once every quarter, with the Commission, on the operation and administration of the Lottery. The Director shall make available for inspection by the Commission, upon request, all books, records, files and other information and documents of the Lottery, advise the Commission and recommend such matters as he deems necessary and advisable to improve the operation and administration of the Lottery.

8880.40 Study of Lottery Systems; Recommendations for Improvement

The Director shall make an on-going study of the operation and the administration of the lotteries which may be in operation in other states or countries, of available literature on the subject, of Federal laws which may effect the operation of the Lottery, and of the reaction of citizens of the State to existing or proposed features in Lottery Games, with a view toward recommending improvements that will tend to serve the purpose of this Chapter. The Director may make recommendations to the Commission, Governor, and Legislature on any matters concerning the secure and efficient operation and administration of the lottery and the convenience of the purchasers of tickets and shares.

8880.41 Accountability; Books and Records

The director shall make and keep books and records which accurately and fairly reflect each day's transactions, including but not limited to, the distribution of tickets or shares to Lottery Game Retailers, receipts of funds, prize claims, prize disbursements or prizes liable to be paid, expenses and other financial transactions of the Lottery necessary so as to permit preparation of daily financial statements in conformity with generally accepted accounting principles and maintain daily accountability.

8880.42 Monthly Financial Reports

The Director shall make a monthly financial report to the Commission, the Governor, the Attorney General, the State Controller, the State Treasurer and the Legislature. Such report shall include a full and complete statement of Lottery revenues, prizes disbursements, expenses, net revenues, and other financial transactions for the month.

8880.43 Independent Audit of Lottery Finance

The Director shall engage an independent firm of certified public accountants to conduct an annual audit of all accounts and transactions of the Lottery. The audit report shall be presented to the Commission, the Governor, the State Controller, the State Treasurer, and the Legislature.

8880.44 Demographic Study of Lottery Players

After the first six months of sales to the public, the Director shall engage an independent firm experienced in demographic analysis to conduct a special study which shall ascertain the demographic characteristics of the players of each Lottery Game, including but not limited to their income, age, sex, education, and frequency of participation. This report shall be presented to the Commission, the Governor, the State Controller, the State Treasurer, and the Legislature. Similar studies shall be conducted from time to time as determined by the Director.

8880.45 Study of the Effectiveness of Lottery Communications

After the first full year of sales to the public, the Director shall engage an independent firm experienced in the analysis of advertising, promotion, public relations, incentives, and other aspects of communications to conduct a special study of the effectiveness of such communication activities and future rate of expenditure for such activities. This report shall be presented to the Commission, the Governor, the State Controller, and the State Treasurer. Until the presentation of such report and action by the Commission, the Commission shall expend a close 3 1/2% as practical of the projected sales of all lottery tickets and shares for advertising, promotion, public relations, incentives, and other aspects of communications. Similar studies shall be conducted from time to time after the first such study as determined by the Director.

8880.46 Independent Audit of Lottery Security

After the first 9 months of sales to the public, the Commission shall engage an independent firm experienced in security procedures, including but not limited to computer security and systems security, to conduct a comprehensive study and evaluation of all aspects of security in the operation of the lottery. Such study shall include, but not be limited to, personnel security, Lottery Game Retailer security, Lottery Contractors security, security of manufacturing operations of Lottery Contractors, security against ticket counterfeiting and alterations and other means of fraudently winning, security of drawings, computer security, data communications security, database security, system security, lottery premises and warehouse security, security in distribution, security involving validation and payment procedures, security involving unclaimed prizes, security aspects applicable to each particualr [sic] the lottery game, security against locating winners in lottery games having pre-printed winners, and any other aspects of security applicable to the lottery and its operations. The portion of the report containing the overall evaluation of the Lottery in terms of each aspect of security shall be presented to the Commission, the Governor, the State Controller, the State Treasurer, and the Legislature. The portion of the report containing specific recommendations shall be confidential and shall be presented only to the Commission and the Governor. Similar audits of security shall be conducted biannually thereafter.

Article 5

Lottery Game Retailer

8880.47 Contracting with Lottery Game Retailers

The Commission shall promulgate rules and regulations specifying the terms and conditions for contracting with Lottery Game Retailers so as to provide adequate and convenient availability of tickets or shares to prospective buyers of each Lottery Game as appropriate for each such game.

8880.48 Selection of Lottery Game Retailers

The Director shall, pursuant to this Chapter and the rules and regulations of the Commission, select the Lottery Game retailer such persons as he deems shall best serve the public convenience and promote the sale of tickets or shares. No person under the age of 18 shall be a Lottery Game Retailer. In selection of Lottery Game Retailers, the Director shall consider factors such as financial responsibility, integrity, reputation, accessibility of the place of business or activity to the public, security of the premises, the sufficiency of existing Lottery Game Retailers to serve the public convenience, and the projected volume of the sales for the Lottery Game involved.

No person shall be Lottery Game Retailer who is engaged exclusively in the business of selling lottery tickets or shares. A person lawfully engaged in non-governmental business on state property and an owner or lessee of an establishment which sells alcoholic beverages may be selected as a Lottery Game Retailer. Civic and fraternal organizations may be selected as Lottery Game Retailer. The Director may contract with Lottery Game Retailers on a seasonal or temporarily basis.

8880.49 Non-Assignability

The authority to act as a Lottery Game Retailer shall not be assignable or transferable.

8880.50 Termination of Lottery Game Retailers

The Commission shall promulgate rules and regulations which shall prescribe the procedure by which a contract with a Lottery Game Retailer may be terminated and the reasons for such termination, including, but not limited to, instances where a Lottery Game Retailer knowingly sells a ticket or share to any person under the age of 18.

8880.51 Compensation for the Lottery Game Retailer

Unless the Commission shall otherwise determine, the compensation paid to Lottery Game Retailers shall be a minimum of 5% of the retail price of the ticket or shares. In addition, an incentive bonus may be paid to such Lottery Game Retailers based on attainment of sales volume or other objectives as specified by the Director for each Lottery Game. In the case of a Lottery Game Retailer whose rental payment for his premises are contractually computed, in whole or in part, on the basis of a percentage of his retail sales, and where such computation of his retail sales is not explicitly defined to

include sales of tickets or shares in a state-operated lottery, the compensation received by the Lottery Game Retailer from the Lottery shall be deemed as the amount of the retail sale for the purposes of computing his rental payment.

8880.52 Sales to Minors

No tickets or shares in Lottery Games shall be sold to persons under the age of 18. In case of lottery tickets or shares sold by Lottery Game Retailers or their employees, such persons shall establish safeguards to assure that such sales are not made to persons under the age of 18. In the case of sales of tickets or shares sold by vending machines or other devices, the Commission shall establish safeguards to help assure that such vending machines or devices are not operated by persons under the age of 18.

8880.53 Display of Certificate of Authority

No lottery tickets or shares shall be sold by a Lottery Game Retailer unless he has his certificate of authority to sell lottery tickets or shares on display on his premises.

8880.54 Bonding

The Director may require a bond from any Lottery Game Retailer in an amount specified in the California State Lottery rules and regulations or may purchase blanket bonds covering the activities of selected Lottery Game Retailers.

8880.55 Lottery Game Retailer Payments

No payment by Lottery Game Retailers to the Lottery for tickets or shares shall be in cash. All such payments shall be in the form of a check, bank draft, electronic fund transfer, or other recorded financial instrument as determined by the Director.

Article 6

Lottery Suppliers

8880.56 Procurement

Notwithstanding other provisions of law, the Director may purchase or lease such goods and services as are necessary for effectuating the purposes of this Chapter. The Director may not contract with any private party for the operation and administration of the California State Lottery created by this Chapter; however, the foregoing shall not preclude procurements which integrate functions such as game design, supply, advertising, and public relations. In all procurement decisions, the Commission and Director shall take into account the particularly sensitive nature of the California State Lottery and shall act to promote and ensure integrity, security, honesty, and fairness in the operation and administration of the Lottery, and the objective of raising net revenues for the benefit of the public purpose described in this Chapter.

8880.57 Disclosures

In order to allow an evaluation of the competence, integrity, and character of

potential suppliers of the California State Lottery Commission, any person, corporation, trust, association, partnership or joint venture (herein referred to as "supplier") which submits a bid, proposal or offer as part of procurement for a contract for any goods or services for the California State Lottery shall first disclose at the time of such bid, proposal or offer to the Lottery:

(a) The supplier's name and address and, as applicable, the name and address of the following:

(i) If the suppler is a corporation, the officers, directors, and each owner, directly or indirectly, of any equity security or other ownership interest in such corporation; except that, in the case of owners of publicly held equity securities of a publicly traded corporation, only the names and addresses of those known to the corporation to beneficially own five percent or more of such publicly held securities need be disclosed;

(ii) If the supplier is a trust, the trustee and all persons entitled to receive income or benefit from the trust;

(iii) If the supplier is an association, the members, officers, and directors;

(iv) If the supplier is a subsidiary, the officers, directors, and stockholders of the parent company thereof; except that, in the case of owners of publicly held equity securities of a publicly traded corporation, only the names and addresses of those known to the corporation to beneficially own five percent or more of such publicly held securities need be disclosed:

(v) If the supplier is a partnership or joint venture, all of the general partners, limited partners, or joint venturers;

(vi) If the parent company, general partner, limited partner, or joint venturer of any supplier is itself a corporation, trust, association, subsidiary, partnership, or joint venture, then all of the information required herein shall be disclosed for such other entities as if were itself a supplier to the end that full disclosure of the ultimate ownership be achieved;

(vii) If the supplier proposes to subcontract any substantial portion of the work to be performed to a subcontractor, then all of the information required herein shall be disclosed for such subcontractor as if it were itself a supplier.

The persons or entities in (i) through (vii) above, along with the supplier itself, shall hereinafter be referred to as "applicants."

(b) A disclosure of all the states and jurisdictions in which each applicant does business, and the nature of that business for each such state or jurisdiction.

(c) A disclosure of all the states and jurisdictions in which has contracts to supply gaming goods or services, including, but not limited to, lottery goods and services, and the nature of the goods or services involved for each such state or jurisdiction.

(d) A disclosure of all the states and jurisdictions in which each applicant has

applied for, has sought renewal of, has recieved [sic], has been denied, has pending, or has had revoked a gaming license of any kind, and the disposition of such in each such state or jurisdiction. If any gaming license has not been renewed or any gaming license application has been either denied or has remained pending for more than 6 months, all of the facts and circumstances underlying this failure to receive a gaming license must be disclosed.

(e) A disclosure of the details of any conviction or judgment of a state or Federal court of each applicant of any gambling related offense or criminal offense other than traffic violations.

(f) A disclosure of the details of any bankruptcy, insolvency, or reorganization, or any pending litigation of each applicant.

(g) A disclosure for each applicant who is a natural person of his employment, residence, educational, and military history since the age of 18.

(h) A disclosure consolidating all reportable information on all reportable contributions by each applicant to any local, state, or Federal political candidate or political committee in the State of California for the past 5 years that is reportable under any existing state or Federal law.

(i) A Disclosure of the identity of any entity with which the applicant has a joint venture or other contractual arrangement to supply any state or jurisdiction with gaming goods or services, including but not limited to lottery goods or services; including a disclosure with regard to such entity of all of the information requested under subparagraphs (a) through (h) hereof.

(j) In the instance of a procurement for the printing of lottery tickets, for goods or services involving the receiving or recording of number selections, or for goods or services involving the determination of winners, an additional disclosure consisting of the individual Federal and state income tax returns for the past 3 years and a current individual financial statement for each applicant who is a natural person, provided that the disclosures provided in this subsection (j) shall be considered confidential and will be transmitted directly to the Deputy Director for Security and the Attorney General of the State for their review.

(k) Such additional disclosure and information as may be appropriate for the procurement involved as determined by the Director.

No contract with any supplier who has not complied with the disclosure requirements described herein for each of its applicants shall be entered into or be enforceable . Any contract with any Lottery Contractor who does not comply with such requirements for maintaining the currency of such disclosures during the tenure of such contracts as may be specified in such contract may be determined by the Commission.

This section shall be construed broadly and liberally to achieve the end of full disclosure of all information necessary to allow for a full and complete evaluation of the competence, integrity, and character of potential suppliers to the California State Lottery Commission.

8880.58 Compliance with Applicable Laws

Each Lottery Contractor shall perform its contract consistent with the laws of this State, Federal law, and laws of the state or states in which such supplier is performing or producing, in whole or part, any of the goods or services contracted for hereunder.

8880.59 Performance Bond

Each supplier as described in 8880.57(j) to whom an award of contract is made shall post a performance bond with the Commission, using a surety acceptable to the Commission, in an amount equal to the full amount estimated to be paid annually to the supplier under the contract.

8880.60 Contracts

Subject to the approval of the Commission, the Director may directly solicit proposals or enter into contracts for the purchase or lease of goods or services for effectuating the purpose of this Chapter. In awarding contracts in response to solicitations for proposals conducted by the California State Lottery, the Director shall award such contracts to the responsible supplier submitting the lowest and best proposal which maximizes the benefits to the State in relation to cost in the areas of security, competence, experience, timely performance and maximization of net revenues to benefit the public purpose described in this Chapter. All contracts entered into by the Director shall be subject to the approval of the Commission.

Article 7

State Lottery Fund

8880.61 State Lottery Fund

A special fund to be known as the "State Lottery Fund" is created within the State Treasury which is continuously appropriated for carrying out the purposes of this Chapter. The fund shall receive all proceeds from the sales of lottery tickets or shares, the temporary line of credit for initial start-up costs, and all other monies credited to the Lottery from any other Lottery-related source.

8880.62 Types of Disbursements from the State Lottery Fund

Funds shall be disbursed from the State Lottery Fund by the State Controller for any of the following purposes:

(a) the payment of prizes to the holders of valid lottery tickets or shares,

(b) expenses of the Lottery,

(c) repayment of any funds advanced from the temporary line of credit to the Commission from the State General Fund for initial start-up costs and the interest on any such funds advanced,

(d) transfer of funds from the State Lottery Fund to the benefit of the public purpose established in this Chapter.

8880.63 Prize Payments

As nearly as practical, 50% of the total projected revenue, computed on a year-round basis for each lottery game, accruing from the sales of all lottery tickets or shares from that lottery game shall be apportioned for payment of prizes.

8880.64 Expenses

Expenses of the Lottery shall include all costs incurred in the operation and administration of the Lottery and all costs resulting from any contracts entered into the for [sic] purchase or lease of goods and services required by the Lottery, including but not limited to, the costs of supplies, materials, tickets, independent audit services, independent studies, data transmission, advertising, promotion, incentives, public relations, communications, compensation paid to the Lottery Game Retailers, bonding for lottery game retailers, printing, distribution of the tickets or shares, reimbursement of costs of services provided to the California State Lottery by other governmental entities, and for the costs for any other goods and services necessary for effectuating the purposes of this Chapter. No more than 16% of the total annual revenues accruing from the sale of all lottery tickets and shares from all Lottery Games shall be expended for the payment of the expenses of the Lottery.

8880.65 Transfer of Net Revenues

The funds remaining in the State Lottery Fund after accrual of all revenues to the State Lottery Fund, and after accrual of all obligations of the Lottery for prizes, expenses, and the repayment of any funds advanced from the temporary line of credit for initial start-up costs and interest hereon shall be deemed to be the net revenues of the Lottery. The net revenues of the Lottery shall be transferred from the State Lottery Fund periodically to the California State Lottery Commission.

8880.66 Intergovernmental Reimbursements for Services

The Commission shall reimburse all other governmental entities for any and all services necessary to effectuate the purpose of this Chapter provided by such governmental entities to the State Lottery Commission.

8880.67 State Controller Audits

The State Controller shall conduct quarterly and annual post- audits of all accounts and transactions of the Commission and other special post-audits as the State Controller deems necessary. The Controller or his agents conducting an audit under this Chapter shall have access and authority to examine any and all records of the Commission, its distributing agencies, Lottery Contractors, and Lottery Game Retailers.

ARTICLE 8

Miscellaneous

8880.68 Taxes

No State or local taxes shall be imposed upon the sale of lottery tickets or shares of the California State Lottery or any prize awarded by the California State Lottery.

8880.69 Preemption of Local Laws

It is the intent of this Chapter that all matters related to the operation of the Lottery as established hereby be governed solely pursuant to this Chapter and be free from regulation or legislation of local governments, including a city, city and county, or county.

8880.70 Lawful Activity

Any other State or local law providing any penalty, disability, restriction, or prohibition for the possession, manufacture, transportation, distribution, advertising, or sale of any lottery tickets or shares shall not apply to the tickets or shares of the California State Lottery.

8880.71 Restrictions

No person shall be selected, appointed or hired to be a Commissioner, Director, deputy director, or Commission employee who has been convicted of a felony or any gambling-related offenses.

SEC. 4. There is hereby established a temporary line of credit to be drawn from the State General Fund to the State Lottery fund established by this Chapter in the amount of $16,500,000.00 which is continuously appropriated for carrying out the purposes of this Chapter. This line of credit may be drawn upon by the California State Lottery only during the twelve months after the effective date of the Act and only for the purpose of financing the initial start-up of the Lottery. The Lottery may draw upon all or part of this temporary line of credit. Any funds advanced from the temporary line of credit shall be repaid to the State General Fund within twelve months of the advance of said funds. In addition, interest shall be paid at an annual interest rate of 10% on funds advanced from the temporary line of credit commencing on the day funds are advanced.

SEC. 5. No provision of this Act may be changed except to further its purpose by a bill passed by a vote of two-thirds of the membership of both houses of the Legislature and signed by the Governor.

SEC. 6. If any provision of this Act or the application thereof any person or circumstance is held invalid, such invalidly shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

CODE Added "The California State Lottery Act of 1984"

Case Rumsey Indian Rancheria of Wintun Indians v. Wilson. 39 F. Supp. 2d 1227 (E.D. Cal. 1998).

Case Western Telcon, Inc. v. California State Lottery. 13 Cal. 4th 475, 917 P.2d 651, 53 Cal. Rptr. 2d 812 (1996).

Case	Western Telcon, Inc. v. California State Lottery. 41 Cal. App. 4th 1668, 43 Cal. Rptr. 2d 747 (1995).
Case	Western Telcon, Inc. v. California State Lottery Comm'n. 33 Cal. App. 4th 223, 39 Cal. Rptr. 2d 273 (1995).
Case	Aguimatang v. California State Lottery. 234 Cal. App. 3d 769, 286 Cal. Rptr. 57 (1991).
Case	Horan v. State. 220 Cal. App. 3d 1503, 270 Cal. Rptr. 194 (1990).
Case	City of Gilroy v. State Bd. of Equalization. 212 Cal. App. 3d 589, 260 Cal. Rptr. 723 (1989).
Case	City of Gilroy v. State Bd. of Equalization. 210 Cal. App. 3d 1333, 258 Cal. Rptr. 804 (1989).

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Highlighted Table | Text of Proposition | Arguments

Full Text

Record: 857

Proposition #	**63**
Title	**Official State Language. Initiative Constitutional Amendment**
Year/Election	**1986** general
Proposition type	initiative constitutional
Popular vote	Yes: 5,138,577 (73.2%); No: 1,876,639 (26.8%)
Pass/Fail	Pass
Summary	Provides that English is the official language of State of California. Requires Legislature to enforce this provision by appropriate legislation. Requires Legislature and state officials to take all steps necessary to ensure that the role of English as the common language of the state is preserved and enhanced. Provides that the Legislature shall make no law which diminishes or ignores the role of English as the common language. Provides that any resident of or person doing business in state shall have standing to sue the state to enforce these provisions. Summary of Legislative Analyst's estimate of net state and local government fiscal impact: This measure would have no direct effect on the costs or revenues of the state or local governments.

Analysis

Analysis by the Legislative Analyst

Background

The California Constitution does not confer any special status on the English language.

Proposal

This constitutional amendment declares that English is the official language of the State of California. It directs the Legislature to enact appropriate legislation to preserve the role of English as the state's common language. In addition, it prohibits the Legislature from passing laws which diminish or ignore the role of English as the state's common language.

Fiscal Effect

This measure would have no effect on the costs or revenues of the state and local governments.

For

Argument in Favor of Proposition 63

The State of California stands at a crossroads. It can move toward fears and

tensions of language rivalries and ethnic distrust. Or it can reverse that trend and strengthen our common bond, the English language.

Our immigrants learned English if they arrived not knowing the language. Millions of immigrants now living have learned English or are learning it in order to participate in our culture. With one *shared* language we learn to respect other people, other cultures, with sympathy and understanding.

Our American heritage is now threatened by language conflicts and ethnic separatism. Today, there is a serious erosion of English as our common bond. This amendment reaffirms California's oneness as a state, and as one of fifty states united by a common tongue.

This amendment establishes a broad principle: English is the official language of California. It is entitled to legal recognition and protection as such. No other language can have a similar status. This amendment recognizes in law what has long been a political and social reality.

Nothing in the amendment prohibits the use of languages other than English in unofficial situations, such as family communications, religious ceremonies or private business. Nothing in this amendment forbids teaching foreign languages. Nothing in this amendment removes or reduces any Californian's constitutional rights.

The amendment gives guidance to the Legislature, the Governor and the courts. Government must protect English:

. by passing no law that ignores or diminishes English;

. by issuing voting ballots and materials in English only (except where required by federal law);

. by ensuring that immigrants are taught English as quickly as possible (except as required by federal law);

. by functioning in English, except where public health, safety and justice require the use of other languages;

. by weighing the effect of proposed legislation on the role of English; and

. by preserving and enhancing the role of English as our common language.

Californians have already expressed themselves decisively. More than a million Californians asked to place this measure on the ballot, the third largest number of petition signatures in California history. In 1984, 70+ percent of California voters, 6,300,000, approved Proposition 38, "Voting Materials in English *ONLY.*"

This amendment sends a clear message: English is the official language of California. To function, to participate in our society, we must know English. English is the language of opportunity, of government, of unity. English, in a fundamental sense, is *US.*

Every year California's government makes decisions which ignore the role of English in our state; some may cause irreversible harm. Government's bilingual activities cost millions of taxpayers' dollars each year. This amendment will force government officials to stop and think before taking action.

The future of California hangs in the balance -- a state divided or a state united -- a true part of the Union. *YES* is for unity -- for what is right and best for our state, for our country, and for all of us.

PLEASE VOTE *YES* ON PROPOSITION 63 -- ENGLISH AS THE OFFICIAL LANGUAGE OF CALIFORNIA.

FOR(au) S. I. Hayakawa, Ph.D. |t United States Senator, 1977-1982

FOR(au) J. William Orozco |t Businessman

FOR(au) Stanley Diamond |t Chairman, California English Campaign

Rebuttal **Rebuttal to Argument in Favor of Proposition 63**

Proposition 63 doesn't simply make English our "official" language; it seeks to make it California's *only* language. It does *nothing positive* to increase English proficiency. It only punishes those who haven't had a fair opportunity to learn it.

Proposition 63 threatens to isolate those who haven't yet mastered English from essential government services such as 911 emergency operators, public service announcements, schools, and courts. By preventing them from becoming better, more involved citizens while making the transition into American society, Proposition 63 will *discourage* rather than encourage the assimilation of new citizens.

Worse yet, because Proposition 63 amends the *Constitution,* its harmful effects will be virtually *permanent* and *unchangeable.* All governmental bodies, from the State Legislature to local school boards, police and hospitals will be powerless to meet the changing and varying needs of the public.

Proposition 63 is inflexible. It does not contain the exceptions the proponents claim. It has *no* exception for use of foreign languages where public health, safety and justice require.

Inevitable disputes over the meaning of Proposition 63's sweeping language will mean our government will be dragged into countless, costly lawsuits at taxpayers' expense.

America's greatness and uniqueness lie in the fact that we are a nation of diverse people with a shared commitment to democracy, freedom and fairness. *That* is the common bond which holds our nation and state together. It runs much deeper than the English language.

Proposition 63 breeds intolerance and divisiveness. It betrays our democratic ideals.

Vote NO on Proposition 63!

Rebuttal(au) The Honorable Dianne Feinstein |t Mayor, San Francisco
Rebuttal(au) Art Torres |t State Senator, 24th District
Rebuttal(au) State Council of Service Employees
Against **Argument Against Proposition 63**

This summer we celebrated the 100th anniversary of the Statue of Liberty. That glorious 4th of July brought all Americans together. Now, four months later, Proposition 63 threatens to divide us and tarnish our proud heritage of tolerance and diversity.

This proposition, despite its title, does not preserve English as our common language. Instead, it undermines the efforts of new citizens of our state to contribute to and enter the mainstream of American life.

English is and will remain the language of California. Proposition 63 won't change that. What it *will* do is produce a nightmare of expensive litigation and needless resentment.

Proposition 63 could mean that state and local government must eliminate multilingual police, fire, and emergency services such as 911 telephone operators, thereby jeopardizing the lives and safety of potential victims.

It could mean that court interpreters for witnesses, crime victims, and defendants have to be eliminated.

It could outlaw essential multilingual public service information such as pamphlets informing non-English-speaking parents how to enroll their children in public schools.

Even foreign street signs and the teaching of languages in public schools could be in jeopardy.

We can hope that sensible court decisions will prevent these consequences. But Proposition 63 openly invites costly legal attempts to seek such results. It is certain to set Californian against Californian with tragic consequences.

What makes this especially troubling is that the overwhelming majority of immigrants *want* to learn English. In fact, a recent study shows that 98% of Latin parents say it is essential for their children to read and write English well.

Asians, Latinos and other recent immigrants fill long waiting lists for English courses at community colleges and adult schools. But this initiative does nothing *positive* to help. For instance, it provides for no increase in desperately needed night and weekend English classes.

The Los Angeles County Board of Supervisors, when faced with a negative local measure like this one, firmly and wisely rejected it by a unanimous, bipartisan vote. On April 21, 1986, they said in part:

"English as the official language resolutions will not help anyone learn English.

They will not improve human relations, and they will not lead to a better community. They will create greater intergroup tension and ill will, encourage resentment and bigotry, pit neighbor against neighbor and group against group. They reflect our worst fears, not our best values.

"In many areas ... non-English-speaking persons have sometimes represented a problem for schoolteachers, service providers, law enforcement officers, who are unable to understand them. The problem will be solved over time as newcomers learn English. It has happened many times before in our history. In the meanwhile ... common sense ... good will, sensitivity, and humor will help us through this challenging period."

Well said by public officials representing both sides of the political spectrum.

Proposition 63 is unnecessary. It is negative and counterproductive. It is, in the most fundamental sense, un-American. Vote NO on Proposition 63!

Against(au) John Van De Kamp |t Attorney General

Against(au) Willie L. Brown, Jr. |t Speaker, California State Assembly

Against(au) Daryl F. Gates |t Police Chief, Los Angeles Police Department

Rebut Against **Rebuttal to Argument Against Proposition 63**

When this country was founded, immigrants from all over the world streamed to our shores with one hope -- a chance at success. People with divergent backgrounds were forced into close contact, yet the assimilation of these cultures was remarkably constructive. This assimilation into one nation gave us a diversity, a strength and a uniqueness that today we treasure. Every schoolchild learns to marvel at the miracle of the American melting pot.

But the melting pot was not an accident. There was a common thread that tied society together. The common thread in early America and current California was the English language. Proposition 63 will strengthen the English language and invigorate our melting pot. It will not eliminate bilingual police and fire services. It will not prohibit the teaching of foreign languages in our schools. Instead, Proposition 63 will serve as a directional marker towards which we as society can point our new immigrants.

The official language proposition is not an attempt to isolate anyone. Indeed, it is the opposite. We want all immigrants to assimilate into our country. We believe to be a success in California and in the United States, you must be proficient in English. We want to cherish and preserve the ethnic diversity that adds strength and fiber to our society. Yet we remember the common thread binding us together as Americans is the English language. The melting pot has served this nation for 200 years. The ingredients may have varied, but this is no time to change the recipe. Vote yes on Proposition 63.

Rebut Against-au Frank Hill |t Member of the Assembly, 52nd District

Text of Prop. **Text of Proposed Law**

This initiative measure is submitted to the people in accordance with the provisions of Article II, Section 8 of the Constitution.

This initiative measure amends the Constitution by adding sections thereto; therefore, new provisions proposed to be added are printed in *italic type* to indicate that they are new.

PROPOSED AMENDMENT TO ARTICLE III

Section 1. Section 6 is added to Article III of the Constitution to read as follows:

SEC. 6. (a) Purpose.

English is the common language of the people of the United States of America and the State of California. This section is intended to preserve, protect and strengthen the English language, and not to supersede any of the rights guaranteed to the people by this Constitution.

(b) English as the Official Language of California.

English is the official language of the State of California.

(c) Enforcement.

The Legislature shall endorse this section by appropriate legislation. The Legislature and officials of the State of California shall take all steps necessary to insure that the role of English as the common language of the State of California is preserved and enhanced. The Legislature shall make no law which diminishes or ignores the role of English as the common language of the State of California.

(d) Personal Right of Action and Jurisdiction of Courts.

Any person who is a resident of or doing business in the State of California shall have standing to sue the State of California to enforce this section, and the Courts of record of the State of California shall have jurisdiction to hear cases brought to enforce this section. The Legislature may provide reasonable and appropriate limitations on the time and manner of suits brought under this section.

Section 2. Severability

If any provision of this section, or the application of any such provision to any person or circumstance, shall be held invalid, the remainder of this section to the extent it can be given effect shall not be affected thereby, and to this end the provisions of this section are severable.

CODE Added Cal. Const. art. III, section 6

Case Gutierrez v. Southeast Judicial Dist. Mun. Ct.. 838 F.2d 1031 (9th Cir . 1988).

Full Text

Record: 898

Proposition # 98

Title SCHOOL FUNDING.

Year/Election **1988** general

Proposition type initiative constitutional and statutory

Popular vote Yes: 4,689,737 (50.7%); No: 4,500,503 (49.3%)

Pass/Fail Pass

Summary

Amends State Constitution by establishing a minimum level of state funding for school and community college districts; transferring to such districts, within limits, state revenues in excess of State's appropriations limit; and exempting excess funds from appropriations limit. Adds provisions to Education Code requiring excess funds to be used solely for instructional improvement and accountability and requiring schools to report student achievement, drop-out rates, expenditures per student, progress toward reducing class size and teaching loads, classroom discipline, curriculum, quality of teaching, and other school matters. Contains other provisions. Summary of Legislative Analyst's estimate of net state and local government fiscal impact: Meeting the required minimum funding level for schools and community college districts will result in state General Fund costs of $215 million in 1988-89. No excess state revenues are expected in 1988-89 for transfer to schools and community colleges. Local administrative costs are estimated to be $2 million to $7 million a year for preparation and distribution of School Accountability Report Cards. No fiscal effect can be identified for the required prudent reserve fund.

Analysis

Analysis by the Legislative Analyst

Background

The state provides funding for public schools and community colleges, adjusted each year to reflect changes in inflation and student enrollment.

Under the California Constitution, most government entities (including the state and local school districts) have a limit on the amount of tax revenues they can appropriate each year, adjusted annually to reflect changes in inflation and population. Whenever a government entity does not appropriate all of its tax revenues, these "excess revenues" must be returned to taxpayers.

Proposal

This measure makes changes in the way the state funds public schools and treats

excess revenues. Specifically, the measure does the following:

. Establishes a minimum level of funding for public schools and community colleges.

. Requires the state to spend any excess revenues, up to a specified maximum, for public schools and community colleges. Other provisions of the measure would (a) increase the state's appropriations limit so that these funds may be spent and (b) raise the minimum level of funding for public schools and community colleges by the amount of excess revenues they receive.

. Requires the Legislature to establish a state reserve fund.

. Requires school districts to prepare and distribute "School Accountability Report Cards" each year.

Minimum Funding Level. Starting in 1988-89, this measure requires the state to provide a minimum level of funding for public schools and community colleges.

The measure specifies two methods for determining what the minimum funding level should be and requires the state to use the method that results in the *larger* amount.

. The first method would require the state to ensure that the percentage of State General Fund revenue that is allocated to public schools and community colleges is not less than the percentage that was allocated to them in 1986-87.

. The second method would require the state to ensure that public schools and community colleges receive from state and local tax revenues the same total amount of funds received from these sources in the prior year, adjusted for changes in inflation and increases in enrollment.

The measure permits the enactment of legislation, by a two-thirds vote, to suspend the minimum funding requirement for one year.

Distribution of Excess Revenues. This measure requires any excess revenues to be distributed to public schools and community colleges rather than returned to taxpayers. The measure limits the amount the state may distribute each year to 4 percent of the minimum school funding level. In 1988-89, this limit would be about $500 million. Any remaining amount above this limit would be returned to taxpayers.

If excess revenues are distributed in any year, the measure requires that the state's appropriations limit be increased by this amount in the next year. Any excess revenues that public schools or community colleges receive would permanently increase their minimum funding levels.

The measure requires public schools and community colleges to use these additional funds for "instructional improvement and accountability." It also requires that these funds be in addition to -- rather than a replacement for -- other funding and be kept in a separate account.

The distribution of excess revenues to public schools would not be required in any year in which the Superintendent of Public Instruction and the Director of Finance determine that *both* of the following conditions have been met:

. The annual expenditure per student in California is equal to or greater than the average annual expenditure per student of the 10 states with the highest annual expenditures per student for elementary and high schools.

. The average class size in California is equal to or less than the average class size of the 10 states with the lowest class size for elementary and high schools.

Similarly, the distribution of excess revenues to community colleges would not be required in any year in which the Chancellor of the California Community Colleges and the Director of Finance determine that the annual expenditure per student in California is equal to or greater than the annual expenditure per student of the 10 states with the highest annual expenditures per student for community colleges.

School Accountability Report Card. This measure requires the Superintendent of Public Instruction to appoint and consult with a task force to develop a model School Accountability Report Card by March 1, 1989. The model report card would contain information on a variety of school conditions, including student achievement, dropout rates, expenditures, class size, teacher assignment, textbook quality, student services, school safety, teacher evaluation and staff development, classroom discipline, and instructional quality.

This measure requires each public school district to issue an annual School Accountability Report Card for each of its schools, beginning in 1989-90. The measure does not require school districts to adopt the statewide model but, at a minimum, each report card must contain information on the conditions listed above.

State Reserve Fund. This measure requires the Legislature to establish a prudent state reserve fund each year. The measure does not specify the amount of the reserve.

Fiscal Effect

Minimum Funding Level. This measure would result in State General Fund costs of about $215 million in 1988-89. This would bring funding for public schools and community colleges to the same percentage level they had in 1986-87. There would be unknown increases in General Fund costs in the future to maintain school funding at the minimum funding level.

Excess Revenues. It is unclear at this time whether the state will have excess revenues in 1988-89. If there are such excess revenues in 1988-89 or in future years, they would be distributed to public schools and community colleges, up to the specified annual maximum -- $500 million in 1988-89.

Report Cards. It would cost local schools from $2 million to $7 million each year to prepare and distribute the School Accountability Report Cards.

State Reserve Fund. The requirement to establish a state reserve fund would have

no fiscal effect because the state already maintains a reserve fund and the measure does not specify an amount that must be allocated to it.

For

Argument in Favor of Proposition 98

Proposition 98, the School Funding for Instructional Improvement and Accountability Initiative, is a well-thought-out plan for California's schools to once again be among the very best in the nation. Proposition 98 will not raise taxes; it just tells the politicians how to spend state funds to make our schools better.

. Today, classes are overcrowded. California packs more students into its schoolrooms than any other state. And 140,000 more young people are entering our schools each and every year.

. We can't give enough attention to essential subjects and we've had to eliminate some courses entirely.

. We have far too few counselors to help our youth plan their educational and job futures, and to work with those who show signs of delinquency and drug abuse.

In the last ten years the percentage of local property tax dollars used to support local schools has decreased from 43% to 32%. The percentage of our personal income spent on public education has declined from 4.6% to 3.3%, which means a loss of $1,000 a year per student.

Those are only a few of our schools' problems. But they're big ones. And unless we, the voters, do something about them, our state's economy and every Californian's well-being will suffer.

It wasn't always this way.

By 1910, a provision was added to the California Constitution which required that the Legislature first set aside funds for the "support of the public school system."

Beginning in the 1920s the State Constitution required a minimum amount of money be spent on each student. And over the years the specific dollar amount spent on each child was adjusted for inflation.

All that has changed.

Every year for the last ten years, our schools asked the politicians for help. Year after year they said, "We'd like to help, but we just can't agree among ourselves."

We are asking you to step in and reestablish public education as a first priority in our state.

We recognize that there'll never be enough money for everything.

But, since our elected leaders in Sacramento cannot seem to agree on how to spend existing tax dollars, the schoolteachers and the PTA have written a plan for school

funding, instructional improvement, and accountability.

. Proposition 98 takes school financing out of politics by ensuring a minimum funding level for schools which the Legislature and Governor must honor except in fiscal emergencies.

. Proposition 98 requires that if there is a state budget surplus over and above the government spending limit, the money that goes for education can only be used for instructional improvements, paying teachers, or reducing class size.

. Proposition 98 makes schools accountable by requiring that each school make public a progress report on test scores, dropout rates, classroom discipline, class size, instructional materials, the quality of instruction and school leadership.

We're proud that over 1,000,000 Californians signed our initiative and put it on the ballot. Proposition 98 gives us a chance to make our schools number one again.

Please vote "YES" on Proposition 98, the School Funding for Instructional Improvement and Accountability Initiative.

FOR(au) Ed Foglia |t President, California Teachers Association

FOR(au) Helen H. Lindsey |t President, California State PTA

Rebuttal **Rebuttal to Argument in Favor of Proposition 98**

Despite the claims of its supporters, Proposition 98 will do nothing to improve the quality of education in California. It will not improve student performance or make teachers and administrators more accountable. It will likely cause an increase in your taxes.

Proposition 98 is an attempt by the teachers' unions and the educational bureaucracy to guarantee a certain level of state funding for K-12th-grade schools and community colleges -- regardless of any other vital state and local needs, and regardless of whether they are doing a good job in spending those funds and teaching our children.

This year, California will invest more than $20 billion in our K-12th-grade schools -- an increase of nearly $8 billion in the past five years. Total school funding has increased 78 percent during this time period -- far in excess of inflation. With this level of support, many people believe that California's schools should be doing better.

The proponents of Proposition 98 don't realize that bigger budgets don't necessarily buy better schools. Many of the most effective reforms taking place in our classrooms today -- such as more homework, greater parental involvement, increased discipline and more rigorous courses -- do not take additional money. They are the result of increased commitment by principals, teachers, students and parents.

If California hopes to retain its place as a leadership state, we need to provide our students with quality education -- but Proposition 98 will do nothing to help us meet this goal.

VOTE NO ON PROPOSITION 98.

Rebuttal(au) George Deukmejian |t Governor

Rebuttal(au) George Christopher |t Chairman, California Commission on Educational Quality

Rebuttal(au) Richard P. Simpson |t Executice Vice President, California Taxpayers' Association

Against **Argument Against Proposition 98**

Education is already California's top budget priority. Over 50% of all the dollars that you pay into the state's General Fund are spent on schools. SINCE 1982, CALIFORNIA'S PUBLIC SCHOOLS HAVE RECEIVED A 78% INCREASE IN FUNDING, WHILE STUDENT ENROLLMENT HAS RISEN ONLY 14%. Average teacher salaries are now the fifth highest in the nation.

Since 1982, the Governor and the Legislature have provided schools with funding increases every year. Proposition 98 would place a provision in the Constitution which mandates a certain level of school funding *even if it means cutting other services, such as health care for senior citizens, funds to fight drug trafficking or programs to reduce traffic congestion.*

Proposition 98 would place all other important state services at risk. Proposition 98 would throw away the reasonable limit on state spending imposed by a vote of the people. In just a few years, Proposition 98 would surely require a major tax increase.

And for what? Proposition 98 will certainly increase the level of school bureaucracy, but does it guarantee that your children will receive better schooling? Absolutely not!

If you want to continue to increase funding and quality of education *without* raising taxes and *without* cutting other services such as health care, transportation and public safety, then vote "NO" on Proposition 98.

Against(au) George Deukmejian |t Governor

Against(au) George Christopher |t Chairman, California Commission on Educational Quality

Against(au) Richard P. Simpson |t Executive Vice President, California Taxpayers' Association

Rebut Against **Rebuttal to Argument Against Proposition 98**

By including hundreds of millions of dollars spent on state universities and colleges, opponents of Proposition 98 attempt to make it seem that all is well in our public elementary and high schools.

But using "statistics" cannot hide the simple truth.

Today we spend just one real dollar more per student per day in our schools than 10 years ago.

That puts California 48th among the 50 states in percent of personal income spent on schools.

We rank dead last on average class size.

1. Vermont 10. Nebraska 19. Maine 2. Wyoming 11. North Dakota 20. Oklahoma

3. Connecticut 12. Montana 21. Pennsylvania 4. Massachusetts 13. South Dakota 22. Illinois 5. New York 14. West Virginia 23. Virginia 6. Kansas 15. Iowa 24. Maryland 7. Rhode Island 16. Wisconsin 25. Florida 8. New Jersev 17. Delaware 26. Minnesota 9. New Hampshire 18. Missouri 27. Oregon 28. South Carolina 36. Kentucky 44. Alabama 29. Arizona 37. Indiana 45. Tennessee 30. Texas 38. Georgia 46. Michigan 31. Louisiana 39. Ohio 47. Washington 32. Arkansas 40. North Carolina 48. Idaho 33. New Mexico 41. Hawaii 49. Utah 34. Mississippi 42. Alaska 50. *California* 35. Colorado 43. Nevada Proposition 98 only guarantees schools as much money as they received in the last year adjusted to pay for new children and inflation. It does not raise taxes.

It reforms the system by requiring that extra money is only spent for instructional improvement.

And it sets up a comprehensive program which holds educators accountable for the job they do and the tax dollars they spend.

Rebut Against-au Bill Honig |t State Superintendent of Public Instruction

Rebut Against-au Ray Tolcacher |t President, Association of California School Administrators

Text of Prop. **Text of Proposed Law**

This initiative measure is submitted to the people in accordance with the provisions of Article II, Section 8 of the Constitution.

This initiative measure expressly amends the Constitution by amending and adding sections thereto, and adds sections to the Education Code; therefore, existing sections proposed to be deleted are printed in ~~strikeout type~~ and new provisions proposed to be added are printed in *italic type* to indicate that they are new.

PROPOSED LAW

SECTION 1. This Act shall be known as "The Classroom Instructional Improvement and Accountability Act"

SECTION 2. Purpose and Intent. The People of the State of California find and declare that:

(a) California schools are the fastest growing in the nation. Our schools must make room for an additional 130,000 students every year.

(b) Classes in California's schools have become so seriously overcrowded that California now has the largest classes of any state in the nation.

(c) This act will enable Californians to once again have one of the best public schools systems in the nation.

(d) This act will not raise taxes.

(e) It is the intent of the People of California to ensure that our schools spend money where it is most needed. Therefore, this Act will require every local school board to prepare a School Accountability Report Card to guarantee accountability for the dollars spent.

(f) This Act will require that excess state funds be used directly for classroom instructional improvement by providing for additional instructional materials and reducing class sizes.

(g) This Act will establish a prudent state reserve to enable California to set aside funds when the economy is strong and prevent cutbacks or tax increases in times of severe need or emergency.

SECTION 3. Section 5.5 is hereby added to Article XIIIB as follows:

SECTION 5.5. Prudent State Reserve. The Legislature shall establish a prudent state reserve fund in such amount as it shall deem reasonable and necessary. Contributions to, and withdrawals from, the fund shall be subject to the provisions of Section 5 of this Article.

SECTION 4. Section 2 of Article XIIIB is hereby amended to read as follows:

SECTION 2. *Revenues in Excess of Limitation.*

(a) All revenues received by the state in excess of that amount which is appropriated by the state in compliance with this Article, and which would otherwise be required, pursuant to subdivision (b) of this Section, to be returned by a revision of tax rates or fee schedules within the next two subsequent fiscal years, shall be transferred and allocated pursuant to Section 8.5 of Article XVI up to the maximum amount permitted by that section.

(b) Except as provided by subdivision (a) of this Section, ~~Revenues~~ *revenues* received by any entity of government in excess of that amount which is appropriated by such entity in compliance with this Article during the fiscal year shall be returned by a revision of tax rates or fee schedules within the next two subsequent fiscal years.

SECTION 5. Section 8 of Article XVI is hereby amended to read as follows:

SECTION 8. *School Funding Priority*

(a) From all state revenues there shall first be set apart the monies to be applied by the state for support of the public school system and public institutions of higher education.

(b) Commencing with the 1988-89 fiscal year, the monies to be applied by the state for the support of school districts and community college districts shall be not less than the greater of:

(1) The amount which, as a percentage of the State General Fund revenues which may be appropriated pursuant to Article XIIIB, equals the percentage of such State

General Fund revenues appropriated for school districts and community college districts, respectively, in fiscal year 1986-87; or

(2) The amount required to ensure that the total allocations to school districts and community college districts from the State General Fund proceeds of taxes appropriated pursuant to Article XIIIB and allocated local proceeds of taxes shall not be less than the total amount from these sources in the prior year, adjusted for increases in enrollment, and adjusted for changes in the cost of living pursuant to the provisions of Article XIIIB.

(c) The provisions of subdivision (b) of this Section may be suspended for one year by the enactment of an urgency statute pursuant to Section 8 of Article IV, provided that no urgency statute enacted under this subdivision, may be made part of or included within any bill enacted pursuant to Section 12 of Article IV.

SECTION 6. Section 8.5 of Article XVI is hereby added as follows:

SECTION 8.5. Allocations to State School Fund

(a) In addition to the amount required to be applied for the support of school districts and community colleges pursuant to Section 8(b), the Controller shall during each fiscal year transfer and allocate all revenues available pursuant to subdivision (a) of Section 2 of Article XIIIB, up to a maximum of four percent (4%) of the total amount required pursuant to Section 8(b) of this Article, to that portion of the State School Fund restricted for elementary and high school purposes, and to that portion of the State School Fund restricted for community college purposes, respectively, in proportion to the enrollment in school districts and community college districts respectively.

(1) With respect to funds allocated to that portion of the State School Fund restricted for elementary and high school purposes, no transfer or allocation of funds pursuant to this section shall be required at any time that the Director of Finance and the Superintendent of Public Instruction mutually determine that current annual expenditures per student equal or exceed the average annual expenditure per student of the ten states with the highest annual expenditures per student for elementary and high schools, and that average class size equals or is less than the average class size of the ten states with the lowest class size for elementary and high schools.

(2) With respect to funds allocated to that portion of the State School Fund restricted for community college purposes, no transfer or allocation of funds pursuant to this section shall be required at any time that the Director of Finance and the Chancellor of Community Colleges mutually determine that current annual expenditures per student for community colleges in this state equal or exceed the average school expenditure per student of the ten states with the highest annual expenditures per student for community colleges.

(b) Notwithstanding the provisions of Article XIIIB, funds allocated pursuant to this section shall not constitute appropriations subject to limitation, but appropriation limits established in Article XIIIB shall be annually increased for any such allocations made in the prior year.

(c) From any funds transferred to the State School Fund pursuant to paragraph (a) of this Section, the Controller shall each year allocated to each school district and community college district an equal amount per enrollment in school districts from the amount in that portion of the State School Fund restricted for elementary and high school purposes and an equal amount per enrollment in community college districts from that portion of the State School Fund restricted for community college purposes.

(d) All revenues allocated pursuant to subdivision (a) of this section, together with an amount equal to the total amount of revenues allocated pursuant to subdivision (a) of this section in all prior years, as adjusted if requited by Section 8(b)(2) of Article XVI, shall be expended solely for the purposes of instructional improvement and accountability as required by law.

(e) Any school district maintaining an elementary or secondary school shall develop and cause to be prepared an annual audit accounting for such funds and shall adopt a School Accountability Report Card for each school.

SECTION 7. Section 33126 is hereby added to Article 2 of Chapter 2 of Part 20 of Division 2 of Title 2 of the Education Code to read as follows:

33126. School Accountability Report Card

In order to promote a model statewide standard of instructional accountability and conditions for teaching and learning, the Superintendent of Public Instruction shall by March 1, 1988, develop and present to the Board of Education for adoption a statewide model School Adaptability Report Card.

(a) The model School Accountability Report Card shall include, but is not limited to, assessment of the following school conditions:

(1) Student achievement in and progress toward meeting reading, writing, arithmetic and other academic goals.

(2) Progress toward reducing drop-out rates.

(3) Estimated expenditures per student, and types of services funded.

(4) Progress toward reducing class sizes and teaching loads.

(5) Any assignment of teachers outside their subject areas of competence.

(6) Quality and currency of textbooks and other instructional materials.

(7) The availability of qualified personnel to provide counseling and other student support services.

(8) Availability of qualified substitute teachers.

(9) Safety, cleanliness and adequacy of school facilities.

(10) Adequacy of teacher evaluations and opportunities for professional improvement.

(11) Classroom discipline and climate for learning.

(12) Teacher and staff training, and curriculum improvement programs.

(13) Quality of school instruction and leadership.

(b) In developing the statewide model School Accountability Report, the Superintendent of Public Instruction shall consult with a Task Force on Instructional Improvement, to be appointed by the Superintendent, composed of practicing classroom teachers, school administrators, parents, school board members, classified employees, and educational research specialists, provided that the majority of the task force shall consist of practicing classroom teachers.

SECTION 8. Section 35256 is hereby added to Article 8 of Chapter 2 of Part 20 of Division 3 of Title 2 of the Education Code to read as follows:

35256. School Adaptability Report Card

The governing board of each school district maintaining an elementary or secondary school shall by September 30 1989, or the beginning of the school year develop and cause to be implemented for each school in the school district a School Accountability Report Card.

(a) The School Adaptability Report Card shall include, but is not limited to, the conditions listed in Education Code Section 33126.

(b) Not less than triennially, the governing board of each school district shall compare the content of the school district's School Accountability Report Card to the model School Accountability Report Card adopted by the State Board of Education. Variances among school districts shall be permitted where necessary to account for local needs.

(c) The Governing Board of each school district shall annually issue a School Accountability Report Card for each school in the school district, publicize such reports, and notify parents or guardians of students that a copy will be provided upon request.

SECTION 9. Section 41300.1 is hereby added to Article 1 of Chapter 3 of Part 24 of Division 3 of Title 2 of the Education Code to read as follows:

41300.1. Instructional Improvement and Accountability.

The amount transferred to Section A of the State School Fund pursuant to Section 8.5 of Article XVI of the State Constitution shall to the maximum extent feasible be expended or encumbered during the fiscal year received and solely for the purpose of instructional improvement and accountability.

(a) For the purpose of this section, "instructional improvement and accountability"

shall mean expenditures for instructional activities for school sites which directly benefit the instruction of students, and shall be limited to expenditures for the following:

(1) Lower pupil-teacher ratios until a ratio is attained of not more than 20 students per teacher providing direct instruction in any class, and until a goal is attained of total teacher loads of less than 100 total students per teacher in all secondary school classes in academic subjects as defined by the Superintendent of Public Instruction.

(2) Instructional supplies, instructional equipment, instructional materials and support services necessary to improve school conditions.

(3) Direct student services needed to ensure that each student makes academic progress necessary to be promoted to the next appropriate grade level.

(4) Staff development which improves services to students or increases the quality and effectiveness of instructional staff, designed and implemented by classroom teachers and other participating school district personnel, including the school principal, with the aid of outside personnel as necessary. Classroom teachers shall comprise the majority of any group designated to design such staff development programs for instructional personnel.

(5) Compensation of teachers.

(b) Funds transferred to each school district, pursuant to this section shall be deposited ins a separate account and shall be maintained and appropriated separately from funds from all other sources. Funds appropriated pursuant to this section shall supplement other resources of each school district and shall not supplant any other funds.

SECTION 10. Section 14020.1 is hereby added to Article 1 Chapter 1 of Part 9 of Division 1 of Title 1 of the Education Code to read as follows:

14020.1 Instructional Improvement and Accountability.

The amount transferred to Section B of the State School Fund pursuant to Section 8.5 of Article XVI of the State Constitution shall to the maximum extent feasible be expended or encumbered during the year received solely for the purposes of instructional improvement and accountability.

(a) For the purposes of this section, "instructional improvement and accountability" shall mean expenditures for instructional activities for college sites which directly benefit the instruction of students and shall be limited to expenditures for the following:

(1) Programs which require individual assessment and counseling of students for the purpose of designing a curriculum for each student and establishing a period of time within which to achieve the goals of that curriculum and the support services needed to achieve these goals, provided that any such program shall first have been approved by the Board of Governors of Community Colleges.

(2) Instructional supplies, instructional equipment, and instructional materials and support services necessary to improve campus conditions.

(3) Faculty development which improves instruction and increases the quality and effectiveness of instructional staff, as mutually determined by faculty and the community college district governing board.

(4) Compensation of faculty.

(b) Funds transferred to each community college district pursuant to this section shall be deposited in a separate account and shall be maintained and appropriated separately from funds from all other sources. Funds appropriated pursuant to this section shall supplement other resources of each community college district and shall not supplant funds appropriated from any other source.

SECTION 11. Section 14022 is added to the Education Code to read as follows:

14022. (a) For the purposes of Section 8 and Section 8.5 of Article XVI of the California Constitution, 'enrollment' shall mean:

(1) In community college districts, full-time equivalent students receiving services, and

(2) In school districts, average daily attendance when students are counted as average daily attendance and average daily attendance equivalents for services not counted in average daily attendance.

(b) Determination of enrollment shall be based upon actual data from prior years and for the next succeeding year such enrollments shall be estimated enrollments adjusted for actual data as actual data becomes available.

SECTION 12. Section 41302.5 is added to the Education Code to read as follows:

41302.5. For the purposes of Section 8 and Section 8.5 of Article XVI of the California Constitution, 'school districts' shall include county boards of education, county superintendents of schools and direct elementary and secondary level instructional services provided by the State of California.

SECTION 13. No provision of this Act may be changed except to further its purposes by a bill passed by a vote of two-thirds of the membership of both houses of the Legislature and signed by the Governor.

SECTION 14. Severability

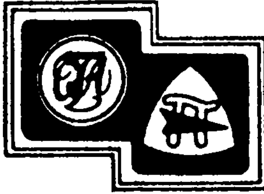
If any provision of this Act, or the application of any provision of this Act to any person or circumstance, shall be held invalid, the remainder of this Act, to the extent that it can be given effect, shall not be affected thereby, and to this end the provisions of this Act are severable.

CODE Amended Cal. Const. art. XIIIB, sections 5.5 and 2, Amended Cal. Const. art. XVI,

	section 8, Added Cal. Const. art. XVI, section 8.5, Added Cal. Educ. Code sections 33126, 35256, 41300.1, 14020.1, 14022, and 41302.5
Case	County of Los Angeles v. Sasaki. 23 Cal. App. 4th 1442, 29 Cal. Rptr. 2d 103 (1994).
Case	California Teachers Ass'n v. Hayes. 5 Cal. App. 4th 1513, 7 Cal. Rptr. 2d 699 (1992).
Case	Hayes v. Commission on State Mandates. 11 Cal. App. 4th 1564, 15 Cal. Rptr. 2d 547 (1992).
Case	League of Women Voters v. Eu. 7 Cal. App. 4th 649, 9 Cal. Rptr. 2d 416 (1992).
Case	Salinas Union High Sch. Dist. v. Honig. 4 Cal. App. 4th 357, 5 Cal. Rptr. 2d 626 (1992).

SA87RF0037

AMENDMENT #1



California Teachers Association
1705 Murchison Drive · P.O. Box 921
Burlingame · California · 94011-0921 · (415) 697-1400

November 24, 1987

Mr. Paul Dobson, Esq.
Office of the Attorney General
1515 "K" Street, Suite 500
Sacramento, CA 94514

SUBJECT: **Amendments – Classroom Instructional Improvement and Accountability Act**

Dear Mr. Dobson:

I am the proponent of the proposed Classroom Instructional Improvement and Accountability Act, which was submitted to your office for preparation of title and summary. Pursuant to the provisions of Election Code 3503, I am submitting the following technical amendments to the text of the measure.

(1) **Page 2. Section 2. Subdivision (a).** This subdivision is amended to read as follows: "All revenues received by the state in excess of that amount which is appropriated by the state in compliance with this Article, and which would otherwise be required, pursuant to the provisions of subdivision (b) of this section, to be returned by a revision of tax rates or fee schedules within the next two subsequent fiscal years, shall be transferred and allocated pursuant to Section 8.5 of Article XVI up to the maximum amount permitted by that Section."

(2) **Pages 3 and 4. Section 8.5. Subdivision (a). Paragraph (1).** This paragraph is amended to read as follows: "With respect to funds allocated to that portion of the State School Fund restricted for elementary and high school purposes, no transfer or allocation of funds pursuant to this section shall be required at any time that the Director of Finance and the Superintendent of Public Instruction mutually determine that current annual expenditures per student equal or exceed the average annual expenditure per student of the ten states with the highest annual expenditures per student for elementary and high schools, and that average class size equals or is less than the average class size of the ten states with the lowest class size for elementary and high schools."

(3) **Page 4. Section 8.5. Subdivision (a). Paragraph (2)** Line 2 is hereby amended to read "School Fund restricted for community college purposes, no transfer or allocation of." Line 7 of this paragraph is hereby amended to read "student of the ten states with the highest annual expenditures per student for."

(4) **Page 4. Section 8.5. Subdivision (c).** Line 2 of this subdivision is hereby amended to read "paragraph (a) of this Section, the Controller shall each year allocate to."

Enclosed please find a retyped version of the text of the measure which incorporates the foregoing amendments. Please transmit copies to the appropriate personnel at the office of the Legislative Analyst and the Department of Finance.

Thank you for your cooperation and assistance. If you have any further questions or require any additional information, please contact Wes Van Winkle of the firm of Bagatelos & Fadem at (415) 982-7100.

Sincerely,

Ed Foglia

Ed Foglia
President

EF:AAH/dm

Enclosure

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Full Text

Record: 899

Proposition # 99

Title CIGARETTE AND TOBACCO TAX. BENEFIT FUND. INITIATIVE CONSTITUTIONAL AMENDMENT AND STATUTE

Year/Election **1988** general

Proposition type initiative

Popular vote Yes: 5,607,387 (%); No: 4,032,644 (58.17%)

Pass/Fail Pass

Summary Imposes additional tax upon cigarette distributors of one and one-fourth cents (1 1/4 cents) for each cigarette distributed. Imposes tax upon distributors of other tobacco products which is equivalent to combined rate of tax imposed on cigarettes. Directs State Board of Equalization to determine this tax annually. Places moneys raised in special account which can only be used for: treatment; research of tobacco-related diseases; school and community health education programs about tobacco; fire prevention; and environmental conservation and damage restoration programs. Declares revenues not subject to appropriations limit. Summary of Legislative Analyst's estimate of net state and local government fiscal impact: Will raise additional state revenues of approximately $300 million in 1988-89 (part year) and $600 million in 1989-90 (first full year). These revenue increases would decline gradually in subsequent years. Annual administrative costs are estimated at $500,000 in 1988-89 and $300,000 in subsequent years. There would be no substantial net effect on sales and excise tax revenues to the state, cities, and counties.

Analysis **Analysis by the Legislative Analyst**

Background

Current law imposes a state excise tax which amounts to 10 cents for each pack of 20 cigarettes. This tax is collected by the State Board of Equalization. Seventy percent of the proceeds are distributed to the State General Fund, and the remainder to cities and counties.

Proposal

This measure imposes an additional excise tax on cigarettes which amounts to 25 cents for each pack of 20 cigarettes. The total excise tax, therefore, would be 35 cents for each pack In addition, it imposes a new excise tax on other types of tobacco products, such as cigars, chewing tobacco, pipe tobacco, and snuff. The rate of this tax would be determined by the Board of Equalization, and would be equivalent to the total

excise tax on cigarettes.

The measure requires the revenues from the additional taxes to be spent for the following purposes:

. **Health Education.** Twenty percent must be used for the prevention and reduction of tobacco use, primarily among children, through school and community health education programs.

. **Hospital Services.** Thirty-five percent must be used to pay hospitals for the treatment of patients who cannot afford to pay, and for whom payment will not be made through private coverage or federally funded programs. The medical care services qualifying for payment are not limited to the treatment of tobacco-related illnesses.

. **Physician Services.** Ten percent must be used to pay physicians for medical care services provided to specified patients who cannot afford to pay, as described above.

. **Research.** Five percent must be used to fund tobacco-related disease research.

. **Public Resources.** Five percent must be equally divided between programs that (1) protect, restore, enhance, or maintain fish, waterfowl, and other wildlife habitat areas; and (2) improve state and local park and recreation resources.

. **General Purposes.** The remaining 25 percent may be used for any of the specific purposes described above.

The measure requires all funds to be used to supplement current services, not to fund existing service levels.

In addition, this measure amends the California Constitution to provide that the appropriation of revenues from the additional taxes imposed by this measure is not subject to either the state or local appropriations limits.

The measure would become effective on January 1, 1989.

Fiscal Effect

This measure would raise additional state revenues of approximately $300 million in 1988-89 (part year) and $600 million in 1989-90 (first full year). These revenue increases would decline gradually in subsequent years.

In addition, this measure would have two offsetting effects on State General Fund and local revenues. First, the measure would *increase* sales tax revenues. This is because the sales tax is imposed on the total price of tobacco products, including the increased excise tax. Second, the measure would *reduce* revenues from the existing 10-cents-per-pack cigarette excise tax, because some consumers would reduce their purchases of tobacco products in response to the higher taxes. These revenue effects would offset each other, and there would be little or no *net* effect on the State General Fund or on local revenues.

Administration of the surtax on cigarettes and tobacco products would increase annual costs to the State Board of Equalization by approximately $500,000 in 1988-89 and $300,000 in subsequent years. These costs would be reimbursed out of the proceeds of the additional taxes.

For **Argument in Favor of Proposition 99**

The alarming report released May 16, 1988, by the U.S. Surgeon General confirmed that the ADDICTIVE DRUG, NICOTINE, FOUND IN CIGARETTES is as habit forming and addictive as cocaine and heroin. "We must take steps to prevent young people from beginning to smoke," the report states. "We must insure that every child in every school in this country is educated as to the HEALTH RISKS AND ADDICTIVE NATURE OF TOBACCO USE."

A YES VOTE ON PROPOSITION 99 will place an additional 25-cent tax on every pack of cigarettes and guarantee strong antismoking programs in our schools.

That's why the out-of-state tobacco companies are spending millions of dollars to defeat PROPOSITION 99 the Tobacco Tax. They know that with the growing number of people who kick the habit and the 320,000 people who die annually from tobacco-related diseases, THE TOBACCO COMPANIES MUST HOOK 5,000 NEW YOUNG SMOKERS EVERY DAY JUST TO KEEP CIGARETTE SALES AT THEIR PRESENT LEVELS.

Tobacco companies know that passage of PROPOSITION 99 will hurt cigarette sales. They will spend whatever it takes to get a "No" vote even if it means sacrificing the health and safety of young people.

A YES VOTE FOR A 25-CENT TAX ON EVERY PACK OF CIGARETTES will also raise an additional 30 million dollars each year for medical research to help find a cure and treatment for cancer, emphysema, lung and heart diseases caused by smoking.

A YES VOTE FOR A 25-CENT TAX ON EVERY PACK OF CIGARETTES will pay for medical care for those who cannot afford it and take some of that burden off the taxpayer.

California's health care crisis is forcing some hospitals, clinics, trauma conters and emergency rooms to close. Cities and towns throughout California cannot raise the money necessary to keep them open. THE CLOSING OF HEALTH CARE FACILITIES PUTS EVERY, INDIVIDUAL AND FAMILY IN JEOPARDY.

A YES VOTE FOR A 25-CENT TAX ON EVERY PACK OF CIGARETTES will protect our wildlife and parklands.

Throughout California fires and devastation threaten wildlife and recreational park facilities. A YES VOTE ON PROPOSITION 99 will authorize funding for fire protection, restoration and enhancement of California's parks and open land.

NONSMOKING CALIFORNIANS SHOULD NOT HAVE TO PAY HIGHER TAXES AND INSURANCE PREMIUMS BECAUSE SMOKING CAUSES FIRES AND DISEASE. Smokers should pay their fair share. A 25-cent tax on every pack of

cigarettes is a small price to pay.

VOTE YES ON 99 to educate children about the dangers of smoking.

VOTE YES ON 99 for medical care for people who cannot afford health care.

VOTE YES ON 99 for continued research into tobacco-related diseases.

VOTE YES ON 99 for wildlife protection and restoration of parklands.

P.S. The people who care about your health and welfare -- THE AMERICAN CANCER SOCIETY, AMERICAN LUNG ASSOCIATION, AMERICAN HEART ASSOCIATION, PHYSICIANS, DENTISTS, HOSPITALS, NURSES, EDUCATORS, ENVIRONMENTAL, CITIZEN AND CONSUMER GROUPS -- are sponsoring this initiative and urge you to vote YES ON PROPOSITION 99.

FOR(au) Jesse Steinfeld, M.D. |t Surgeon General (Ret.)

FOR(au) Neil C. Andrews, M.D. |t President, American Cancer Society, California Division

FOR(au) Patricia A. Schifferle |t Regional Director, The Wilderness Society, California/Nevada Region

Rebuttal **Rebuttal to Argument in Favor of Proposition 99**

If you want to *triple a tax, invite more crime, treat many hard-working Californians unfairly, punish some of your neighbors and hand over more money to many wealthy doctors,* you'll vote for Proposition 99.

Read Proposition 99 carefully. You'll see what serious problems it creates for Californians.

Here are just five of the many reasons to *oppose Proposition 99:*

. It would *invite serious crime.* New pressures will be put on police. Officials in 13 states recently joined in a hotline to combat the growing problem of cigarette smuggling. The California State Sheriffs Association and the California Peace Officers Association oppose Proposition 99.

. It would provide *a potential new cash source for street gangs and other criminals.* Smugglers could avoid up to $200,000 in taxes on a truckload of cigarettes bootlegged from another state. Resulting illegal profits could finance the purchase of drugs or guns that could be used against innocent citizens.

. It would *single out and penalize the behavior of one group of people who are breaking no laws.* Is that in the American tradition of fairness?

. It would *unfairly burden lower-income Californians.* Taxes like this take a bigger chunk of a poor family's income. That's called "regressive." Even a 1986 report of the American Hospital Association acknowledges tobacco taxes "tend to produce a regressive distribution of the cost of government programs."

. It would *enrich the medical industry with hundreds of millions of dollars.* A 1987

study indicated one in four doctors surveyed already is a millionaire.

No on taxes.

No on crime.

No on Proposition 99.

Rebuttal(au) Paul Gann |t President, The People's Advocate

Rebuttal(au) Vincent Calderon |t National Chairman, Latino Peace Officers Association

Rebuttal(au) William Baker |t Member of the Assembly, 15th District Vice Chairman, Ways and Means Committee

Against **Argument Against Proposition 99**

Proposition 99 is a 250-percent tax increase and special interest giveaway disguised as a health initiative. It is not a smoking ban.

Proposition 99 will *encourage crime, discriminate against one group of Californians, penalize some lower-income families and reward its major promoters hundreds of millions of dollars.*

Proposition 99 would establish several historic firsts:

. *This ballot measure will encourage crime in California.* Large tax increases on tobacco products in other states have triggered bootlegging, highjacking, vandalism and other criminal behavior. They create a financial bonanza for street gangs and organized crime. *The California State Sheriffs Association and the California Peace Officers Association know the facts and oppose Proposition 99.*

. *This ballot measure was designed to pay off many of its promoters.* Most taxes benefit all citizens. But California's medical industry would pocket at least $292 million of these projected taxes each year. And those least able to afford it would feel the sharpest impact of these new taxes. Proposition 99 would create an unacceptable precedent for other self-serving ballot measures sponsored by special interests seeking new tax dollars for their "special" agendas.

. *This ballot measure was drafted by one group to punish by taxation the behavior of another.* Proposition 99's promoters would impose their values on everyone, penalizing one segment of society for its conduct. Who will be punished next? Can new taxes on beer, wine, coffee or even red meat and eggs be far behind?

Proposition 99 is an excise tax. It hits one group of citizens for what they buy, not what they earn. In 1987 the Congressional Budget Office reported that excise taxes such as tobacco taxes proposed by Proposition 99 are a greater burden on lower-income Americans than other taxes. Tobacco taxes are more unfair than taxes on gasoline, beer or wine.

Groups representing the needy, minorities, business and labor opposed last year's proposed federal excise tax increase and Congress rejected it. Similarly, a state tobacco tax increase failed to get one vote in the California Legislature last year.

The promoters of Proposition 99 have billed it as a health research initiative. Yet, *only five pennies of each new tax dollar would go to health research* -- the smallest allocation in the initiative.

The promoters of Proposition 99 have billed it as a health education initiative as well. The promoters say some of the new education money would be used to finance "major local and statewide media campaigns." Don't be misled. Even the state's largest teachers organization took no position on this initiative. *Earmarking Proposition 99 funds for a health education account could result in a cut in the level of financial support for reading, math and other basic classroom subjects.*

Don't be fooled by trendy, noble-sounding rhetoric. *Read Proposition 99 carefully.* The promoters want you to penalize one group of Californians, impose an unfair tax that falls hardest on lower-income families, and put millions of dollars into their pockets -- while encouraging crime . . . all at the same time.

Proposition 99 is less than meets the eye. *Voters should reject Proposition 99.*

Against(au) Paul Gann |t President, The People's Advocate

Against(au) Vincent Calderon |t National Chairman, Latino Peace Officers Association

Against(au) Richard Floyd |t Member of the Assembly, 53rd District Chairman, Governmental Organization Committee

Rebut Against **Rebuttal to Argument Against Proposition 99**

TOBACCO COMPANIES WONT TELL YOU THE TRUTH about why they oppose Proposition 99.

THE TRUTH IS they oppose increasing tobacco taxes because THEY WILL LOSE MONEY. Every other argument against Proposition 99 is a smokescreen.

THE TRUTH IS CIGARETTE SALES WILL DECLINE. Fewer children will start smoking and more adults will stop.

THE TRUTH IS crime is not the issue. Bootlegging from low-tax tobacco-growing states up the East Coast was a problem in the 1970s. No longer, ILLEGAL DRUG TRADE IS MORE ATTRACTIVE TO CRIMINALS AND GANGS THAN SMUGGLING CIGARETTES.

THE TRUTH IS the State Board of Equalization enforces the tobacco taxes. This is generally not a police matter.

THE TRUTH IS TOBACCO COMPANIES EAGERLY SELL CIGARETTES NO MATTER HOW POOR THE BUYER. They advertise heavily to minority and low-income youth. The result -- 55% of Blacks die from the major smoking-related diseases, and smoking among Hispanic teens is skyrocketing. That's why antismoking education and training is so important.

THE TRUTH IS IT TAKES MONEY TO DELIVER MEDICAL CARE. Proposition 99 provides additional resources to care for those in need.

THE TRUTH IS $32 MILLION EVERY YEAR SUPPORTS RESEARCH ON TOBACCO-RELATED DISEASES. It may be "only pennies" to tobacco companies, but it is four times what the National Cancer Institute spent in California last year.

WHOM DO YOU TRUST? The out-of-state tobacco industry after more profits? Or the American Cancer Society, American Lung Association and American Heart Association? VOTE YES ON 99.

Rebut Against-au John Van De Kamp |t Attorney General, State of California

Rebut Against-au Carol Kawanami |t Immediate Past President, American Lung Association

Rebut Against-au Richard V. Loya |t Coordinator, California Association of School Health Educators and Health Teacher

Text of Prop. **Text of Proposed Law**

This initiative measure is submitted to the people in accordance with the provisions of Article II, Section 8 of the Constitution.

This initiative measure expressly amends the Constitution by adding a section thereto, and adds sections to the Revenue and Taxation Code; therefore, new provisions proposed to be added are printed in *italic type* to indicate that they are new.

PROPOSED LAW

SECTION 1. This measure shall be known and may be cited as the Tobacco Tax and Health Protection Act of 1988.

SEC. 2. The people find and declare as follows:

(a) Tobacco use is the single most preventable cause of death and disease in America.

(b) Tobacco-related diseases create immense suffering and personal loss, and a staggering economic cost which all Californians have to pay.

(c) Tobacco-related diseases are a major burden on state and local governments by requiring them to provide medical care and health services.

(d) Tobacco use causes substantial environmental damage, and property damage and loss of life due to fire.

(e) To reduce the incidence of cancer, heart, and lung disease and to reduce the economic costs of tobacco use in California, it is the intent of the people of California to increase the state tax on cigarettes and tobacco products and do all of the following:

(1) Reduce smoking and other tobacco use among children.

(2) Support medical research into tobacco-related cancer, heart, and lung diseases.

(3) Treat people suffering from tobacco-related diseases.

(4) In recognition of the uncompensated costs of tobacco-related illness, support treatment of patients who cannot afford to pay for services.

SECTION 3. Section 12 is added to Article XIII B of the Constitution, to read:

SEC. 12. "Appropriations subject to limitation" of each entity of government shall not include appropriations of revenue from the Cigarette and Tobacco Products Surtax Fund created by the Tobacco Tax and Health Protection Act of 1988. No adjustment in the appropriations limit of any entity of government shall be required pursuant to Section 3 as a result of revenue being deposited in or appropriated from the Cigarette and Tobacco Products Surtax Fund created by the Tobacco Tax and Health Protection Act of 1988.

SEC. 4. Article 2 (commencing with Section 30121) is added to Chapter 2 of Part 13 of Division 2 of the Revenue and Taxation Code, to read:

Article 2. Cigarette and Tobacco Products Surtax

30121. For purposes of this article:

(a) "Cigarettes" has the same meaning as in Section 30003, as it read on January 1, 1988.

(b) "Tobacco products" includes, but is not limited to, all forms of cigars, smoking tobacco, chewing tobacco, snuff, and any other articles or products made of, or containing at least 50, percent tobacco, but does not include cigarettes.

(c) "Fund" means the Cigarette and Tobacco Products Surtax Fund created by Section 30122.

30122. (a) The Cigarette and Tobacco Products Surtax Fund is hereby created in the State Treasury. The fund shall consist of all revenues deposited therein pursuant to this article. Moneys in the fund may only be appropriated for the following purposes:

(1) Tobacco-related school and community health education programs.

(2) Tobacco-related disease research.

(3) Medical and hospital care and treatment of patients who cannot afford to pay for those services, and for whom payment will not be made through any private coverage or by any program funded in whole or in part by the federal government.

(4) Programs for fire prevention; environmental conservation; protection, restoration, enhancement, and maintenance of fish, waterfowl, and wildlife habitat areas; and enhancement of state and local park and recreation purposes.

(b) The fund consists of six separate accounts, as follows:

(1) The Health Education Account, which shall only be available for appropriation for programs for the prevention and reduction of tobacco use, primarily among children, through school and community health education programs.

(2) The Hospital Services Account, which shall only be available for appropriation for payment to public and private hospitals licensed pursuant to subdivision (a) of Section 1250 of the Health and Safety Code for the treatment of hospital patients who cannot afford to pay for that treatment and for whom payment for hospital services will not be made through private coverage or by any program funded in whole or in part by the federal government.

(3) The Physician Services Account, which shall only be available for appropriation for payment to physicians for service to patients who cannot afford to pay for those services, and for whom payment for physician services will not be made through private coverage or by any program funded in whole or in part by the federal government.

(4) The Research Account, which shall only be available for appropriation for tobacco-related disease research.

(5) The Public Resources Account, which shall only be available for appropriation in equal amounts for both of the following:

(A) Programs to protect, restore, enhance, or maintain fish, waterfowl, and wildlife habitat on an equally funded basis.

(B) Programs to enhance state and local park and recreation resources.

(6) The Unallocated Account, which shall be available for appropriation for any purpose specified in subdivision (a).

30123. (a) In addition to the tax imposed upon the distribution of cigarettes by this chapter, there shall be imposed upon every distributor a tax upon the distribution of cigarettes at the rate of twelve and one-half mills ($0.0125) for each cigarette distributed.

(b) There shall be imposed upon every distributor a tax upon the distribution of tobacco products, based on the wholesale cost of these products, at a tax rate, as determined annually by the State Board of Equalization, which is equivalent to the combined rate of tax imposed on cigarettes by subdivision (a) and the other provisions of this part.

30124. (a) With the exception of payments of refunds made pursuant to Article 1 (commencing with Section 30361) of Chapter 6, and reimbursement of the State Board of Equalization for expenses incurred in the administration and collection of the tax imposed by Section 30123, pursuant to its powers vested by this part, all moneys raised pursuant to the taxes imposed by Section 30123 shall be deposited into the fund as provided in subdivision (b).

(b) Moneys shall be deposited in the fund according to the following formula:

(1) Twenty percent shall be deposited in the Health Education Account.

(2) Thirty-five percent shall be deposited in the Hospital Services Account.

(3) Ten percent shall be deposited in the Physician Services Account.

(4) Five percent shall be deposited in the Research Account.

(5) Five percent shall be deposited in the Public Resources Account.

(6) Twenty-five percent shall be deposited in the Unallocated Account.

(c) Any amounts appropriated from any account specified in subdivision (b) which is not encumbered within the period prescribed by law shall revert to the account from which it was appropriated.

30125. Funds expended pursuant to this article shall be used only for the purposes expressed in this article and shall be used to supplement existing levels of service and not to fund existing levels of service.

30126. The annual determination required of the State Board of Equalization pursuant to subdivision (b) of Section 30123 shall be made based on the wholesale cost of tobacco products as of March 1, and shall be effective during the state's next fiscal year.

30128. This article shall take effect on January 1, 1989.

30129. The tax imposed by Section 30123 shall be imposed on every cigarette and tobacco product in the possession or under the control of every dealer and distributor on and after 12:01 a.m. on January 1, 1989, pursuant to rules and regulations promulgated by the State Board of Equalization.

30130. This article may be amended only by vote of four-fifths of the membership of both houses of the Legislature. All amendments to this article must be consistent with its purposes.

SEC. 6. If any section of this measure, or part thereof, is for any reason not held to be invalid or unconstitutional, the remaining sections shall not be affected but will remain in full force and effect.

CODE Amended Cal. Const. art. XIIIB, section 12, Amended Cal. Rev. & Tax. Code sections 30121, et seq.

Case County of San Diego v. State. 15 Cal. 4th 68, 931 P.2d 312, 61 Cal. Rptr. 2d 134 (1997).

Case Rossi v. Brown. 9 Cal. 4th 688, 889 P.2d 557, 38 Cal. Rptr. 2d 363 (1995).

Case Kennedy Wholesale, Inc. v. State Bd. of Equalization. 53 Cal. 3d 245, 806 P.2d 1360, 279 Cal. Rptr. 325 (1991).

Case Americans v. State. 51 Cal. App. 4th 743, 59 Cal. Rptr. 2d 416 (1997).

Case American Lung Ass'n v. Wilson. 51 Cal. App. 4th 743, 59 Cal. Rptr. 2d 428 (1996).

Case	Tailfeather v. Board of Supervisors of Los Angeles County. 48 Cal. App. 4th 1223, 56 Cal. Rptr. 2d 255 (1996).
Case	State Compensation Ins. Fund v. State Bd. of Equalization. 14 Cal. App. 4th 1295, 18 Cal. Rptr. 2d 526 (1993).
Case	League of Women Voters v. Eu. 7 Cal. App. 4th 649, 9 Cal. Rptr. 2d 416 (1992).
Case	Kennedy Wholesale, Inc. v. Board of Equalization. 227 Cal. App. 3d 228, 265 Cal. Rptr. 195 (1990).

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Record: 949

Proposition #	**132**
Title	**MARINE RESOURCES. INITIATIVE CONSTITUTIONAL AMENDMENT**
Year/Election	**1990** general
Proposition type	initiative constitutional
Popular vote	Yes: 3,959,238 (55.76%); No: 3,140,733 (44.24%)
Pass/Fail	Pass

Summary

. Establishes Marine Protection Zone within three miles of coast of Southern California.

. Commencing January 1, 1994, prohibits use of gill or trammel nets in zone.

. Between January 1, 1991 and December 31, 1993 requires additional permit for use of gill nets or trammel nets in zone.

. Requires purchase of $3 marine protection stamp for fishermen in zone.

. Establishes permit fees and $3 sportfishing marine protection stamp fee to provide compensation to fishermen for loss of permits after January 1, 1994.

. Directs Fish and Game Commission to establish four new ocean water ecological reserves for marine research.

Summary of Legislative Analyst's Estimate of Net State and Local Government Fiscal Impact:

. Permit fees and marine protection stamp would provide approximately $5 million to Marine Resources Protection Account by 1995.

. Compensation for fishermen who surrender gill and trammel nets between July 1, 1993 and January 1, 1994, could total up to $3.4 million, if necessary legislation enacted.

. Enforcement of measure could cost up to $1.5 million annually.

. Loss of $100,000 annually from reduced fishing license, permit, and tax revenues may result; losses offset in unknown amount by measure's increased fines.

Analysis

Analysis by the Legislative Analyst

Background

California's commercial fishermen use a variety of methods to catch fish, including gill nets (which catch fish by the gills) and trammel nets (which capture fish by entangling them). These nets also trap marine mammals and fish species that the fishermen do not intend to catch.

The Department of Fish and Game is responsible for enforcing California's fishing laws and regulations. Current regulations generally prohibit commercial fishermen from using gill nets and trammel nets in California's coastal waters north of Point Reyes in Marin County. In the ocean waters of southern and central California, the use of gill nets and trammel nets is limited to commercial fishermen who hold permits authorizing their use.

In addition, current law requires commercial fishermen to hold a commercial fishing license, and, depending on the type of fish caught, various other licenses, stamps, and permits. Commercial fishermen also pay taxes on each pound of fish caught or delivered in the state. Revenue from the licenses, permits, and taxes are deposited in the Fish and Game Preservation Fund (FGPF).

Proposal

This constitutional amendment bans the use of gill nets and trammel nets, beginning January 1, 1994, in coastal waters of central and southern California. In addition, the measure (1) imposes additional fees for certain permits and marine resource protection stamps until January 1, 1995 and (2) allows that the revenue from the increased fees be used to make a lump sum payment for lost income to fishermen who turn in their gill and trammel net permits.

Prohibition on Use of Nets. This measure:

. Prohibits the use of gill nets and trammel nets from the Mexican border to Point Arguello in Santa Barbara County beginning January 1, 1994.

. Prohibits commercial fishermen from using these nets to catch rockfish in any area of the state.

. Increases the fines and penalties related to the use of gill nets and trammel nets.

. Requires the creation of four new ocean ecological reserves along the state's coast.

Increased Fees and Stamp Requirements. From January 1, 1991, through December 31, 1993, the measure imposes a new permit fee of $250 in 1991, $500 in 1992, and $1,000 in 1993 on commercial fishermen using gill nets and trammel nets in southern California. This fee would be in addition to the permit fee of $250 currently paid by all gill net and trammel net fishermen in the state. The measure also requires that most sport fishermen and the owners of certain commercial fishing vessels purchase a $3 marine resources protection stamp. Revenues from the increased permit fees and the stamps would be deposited in the Marine Resources Protection Account

(MRPA), which the measure creates.

Compensation Program. The measure provides for a one-time compensation payment for lost income to commercial fishermen who surrender their gill net and trammel net permits between July 1, 1993 and January 1, 1994. Those fishermen who do not surrender their permits between these dates, or who do not give required notification to the DFG within 90 days of enactment of this measure, would not receive any compensation. The measure prohibits the payment of compensation unless the Legislature enacts enabling legislation by July 1, 1993, to implement the compensation program.

Fiscal Effect

The measure would have the following fiscal effects.

Fees and Stamp Revenues. The new permit and marine resources protection stamp fees would result in increased revenue of about $5 million to the MRPA by January 1, 1995, when the stamp requirement would expire. These revenues would be used to fund the compensation program and the costs of administering the measure. The measure requires any funds remaining in the MRPA after January 1, 1995 to be used for scientific research into marine resources within the ecological reserves created by the measure.

Compensation Program Costs. Total compensation costs for all fishermen combined could be as much as $3.4 million. Individual compensation payments would be based on each fisherman's average annual fishing income over a five-year period. The compensation costs would be incurred only if the Legislature enacts enabling legislation prior to July 1, 1993.

Enforcement Costs. The Department of Fish and Game could incur costs of up to $1.5 million annually beginning in 1995 to enforce the ban on gill net and trammel net fishing in southern California. These costs would be funded from the FGPF.

Prohibition on the Use of Nets. The ban on the use of gill nets and trammel nets could reduce the number of people fishing commercially and the number of fish brought on shore in California. Such reductions would result in an annual revenue loss of less than $100,000 from reduced taxes on catches. These losses would be offset to an unknown extent by revenues to the FGPF, primarily from the measure's increased fines.

For

Argument in Favor of Proposition 132

A "yes" vote on Proposition 132 will stop the indiscriminate slaughter of marine mammals along the California coast by banning the use of gill nets -- relentless "killing machines" made of tough monofilament mesh that is nearly invisible underwater.

Every year in California, gill nets trap and kill thousands of whales, dolphins, sea lions, harbor seals, sea otters and birds -- animals that have no commercial value, but still fall victim to these deadly underwater traps that mutilate and drown any animals they ensnare.

The California Department of Fish and Game reports that in 1986-87 alone, over 6,500 sea lions, harbor seals, and harbor dolphins were trapped and killed by gill and trammel nets in California waters.

These marine mammals died needlessly. According to the U.S. Marine Mammal Commission, 72% of all fish species caught in gill nets have absolutely no commercial or economic value. They are caught and killed by the nets, then simply thrown back into the sea to rot -- a terrible waste of our precious marine resources.

Gill nets strike at the heart of our sensitive marine environment, ravaging our coastline where fish spawn and grow to maturity, where whales migrate, and where sea lions, seals and porpoises live.

Gill nets that have broken free of their fishing boats can roam the seas as "ghost nets" for up to 400 years, the time it takes for their monofilament mesh to biodegrade.

Gill nets are so destructive that they have already been banned along the coasts of Canada, Oregon and Washington. Our Legislature has even banned gill nets along our northern and central coasts. But under pressure from the commercial fishing industry, the Legislature failed to extend this ban to southern California waters. Proposition 132 will finish the job.

What's worse, the Legislature can now lift the existing gill net ban in central and northern California waters at any time for any reason. Likewise, the Director of the Department of Fish and Game can lift parts of the ban for any number of "new findings" -- without legislative review. Proposition 132 will make sure this doesn't happen.

Proposition 132 will:

. Ban gill and trammel nets within three miles of the southern California coastline and around the Channel Islands.

. Lock into our Constitution a permanent gill net ban along the northern and central California coasts, which only a majority vote of the people could reverse.

. Compensate commercial gill net fishermen and help them switch to less destructive fishing gear and methods.

. Establish four coastal ecological reserves for scientific marine research.

Years ago, California lawmakers had the wisdom to ban the use of dynamite for fishing because it indiscriminately killed any marine animal within range of its blast. Now it's time to outlaw gill nets, whose indiscriminate killing power is equally unacceptable.

Stop the needless and wasteful destruction of our valuable coastal resources -- and put an end to a cruel and archaic fishing method where responsible alternatives exist.

Vote "Yes" on Proposition 132 -- A lasting environmental legacy for future generations of Californians.

FOR(au) Assemblywoman Doris Allen |t Chairwoman, Committee to Ban Gill Nets

FOR(au) Stanley M. Minasian |t President, Marine Mammal Fund

FOR(au) Ann Moss |t President, The Dolphin Connection

Rebuttal **Rebuttal to Argument in Favor of Proposition 132**

Proposition 132 is *not* about protecting marine mammals and wildlife. It is an attempt by wealthy sport fishermen and yachtsmen to monopolize fishery resources for their personal pleasure.

Proposition 132 does *not* stop the slaughter of fish and wildlife on the high seas by foreign driftnet fleets. It does *not* protect dolphins or whales. Proposition 132 affects consumers and a fishery conducted by family fishermen along the southern California coast -- among the best monitored and managed fisheries in the world! If Proposition 132 passes it will increase California's imports of fish from other nations that do not regulate their fisheries to protect wildlife.

California's commercial fishermen have worked with major conservation organizations and state and federal agencies to regulate fishing gear to protect marine mammals and birds. The increasing numbers of gray whales, sea lions, seals and sea otters in California waters are testimony to the success of these cooperative efforts.

Proposition 132 supporters' allegations regarding gillnets are blatantly false. Gillnets are used safely offshore Oregon, Washington, Canada, and central and southern California; they are used in San Francisco Bay, Tomales Bay, Humboldt Bay, and the Klamath River.

Campaign records on Proposition 132 disclose that its major supporters are sportfishing organizations, exclusive yacht clubs, and tackle manufacturers who don't care about dolphins or whales. They are attempting to dupe the public into believing this initiative will protect wildlife so they can create an exclusive, private sportfishing-only club for the wealthy few. Don't be fooled. *Vote No on Proposition 132.*

Rebuttal(au) Burr Henneman |t Former Executive Director, Point Reyes Bird Observatory

Rebuttal(au) Alison McCeney |t Fisherwoman

Rebuttal(au) Craig Ghio |t Vice President, Anthony's Seafood Grottos

Against **Argument Against Proposition 132**

To protect the ability of every California citizen to enjoy fresh, reasonably priced seafood, please vote NO on Proposition 132.

1. *Fish for Food vs. Fish for Fun*

This initiative was drafted with one objective in mind -- to give the most prized fish off the Southern California coast to ocean sportfishermen -- people who ocean-fish for fun -- less than three percent (3%) of the state's population. The remaining 27 million Californians (97% of the state's population) who do not have the time, luxury, or desire to catch their own seafood will no longer have access to these healthy foods. Seafood is a public resource and should belong to everyone.

2. *Denies Consumers Fresh Local Seafood*

If Proposition 132 passes and safe, ecologically sound methods of catching fish are banned, the prices of fresh California seafood like halibut, seabass, shark, sculpin, barracuda, and winter supplies of pacific red snapper will almost triple at restaurants and markets.

3. *Proposition 132 Will Increase The Price Of An Ocean-only Sportfishing License 23%!*

4. *Over 30 Laws Enacted Protecting Fish and Marine Mammals.*

The Department of Fish and Game, seafood industry and environmental groups have worked together to pass dozens of laws which protect fish and marine mammals. Successful programs have been created by this broad coalition to benefit ocean resources by restricting activities during spawning and mating season, by limiting the use of fishing gear, and by providing funds for ongoing scientific research. The fishing industry seeks to protect the environment because their livelihood depends on healthy marine populations. Perhaps that's why major environmental groups don't support Proposition 132.

5. *There Is No Shortage of Fish*

Fishery and marine mammal populations are healthy. In fact, according to the National Marine Fisheries Service population levels of gray whales, sea lions and harbor seals have reached historically high levels. Landings of fish to seafood markets and restaurants remain consistent. Sportfishing magazines continue reports of great fishing. Remember, fish is a renewable resource.

6. *Working Families and Consumers*

Proposition 132 means people will lose their jobs. Over 3,000 people from fish processing plants may lose their jobs. Another 1,000 family fishermen and crew will be out of a job. How will they support their families? How will you get local seafood?

Hardest hit will be Californians on fixed incomes, single parents, seniors and the poor who will no longer be able to afford the healthy nutrition of a fresh seafood meal.

7. *Who's Really Behind Proposition 132?*

Sponsors of Proposition 132 are wealthy sportfishermen and sportfish tackle manufacturers. They have admitted publicly that this is not a resource issue -- rather it is an issue of who can enjoy fish and who can't. In other words, there are ocean resources to be shared by everyone, but this proposition was created so that the people who fish in the ocean for fun can have a monopoly for their personal pleasure.

Against(au) Robert E. Ross |t Executive Director, California Fisheries and Seafood Institute

Against(au) Frank Spenger Jr. |t Seafood Restaurant Owner

Against(au) Mrs. Theresa Hoinsky |t President, Fishermen's Union of America AFL-CIO

Rebut **Rebuttal to Argument Against Proposition 132**

Against Gill netting is not a "safe, ecologically sound method of catching fish." It is a cruel and outdated method that indiscriminately kills thousands of non-commercial marine mammals every year in California. Better methods are available.

Proposition 132 will not triple the cost of fresh fish. Gill nets used within three miles of our coast provide only about one percent of fish sold in California -- an amount so small it will not impact prices. Because gill nets decimate fish stocks, they actually drive up the cost of seafood.

Proposition 132 will not put people out of work. Proposition 132 will provide compensation to help the 250 Southern California gill netters switch to less destructive fishing methods, with funding from a temporary "marine only" sports fishing license. Proposition 132 will save jobs by reducing waste and allowing over-fished species like the white sea bass to recover.

Gill nets are already banned along California's northern and central coasts. Powerful commercial fishing lobbyists have blocked efforts to extend this important protection to Southern California. Proposition 132 will make sure the entire coast of California is protected.

Our coastal waters and the precious resources they sustain belong to all Californians. A small group of commercial fishermen should not be allowed to plunder these limited resources through the cruel, destructive and outdated practice of gill-netting.

Proposition 132 is supported by environmental groups, conservationists, marine scientists, sports fishermen and other concerned Californians. We urge you to join us by voting 'YES' on Proposition 132.

Rebut Against-au Quentin Kopp |t State Senator, Independent -- 8th District

Rebut Against-au Dr. John S. Stephens, Jr. |t James Irvine Professor of Environmental Biology, Occidental College

Rebut Against-au Sam La Budde |t Earth Island Institute Research Biologist

Text of Prop. **Text of Proposed Law**

This initiative measure is submitted to the people in accordance with the provisions of Article II, Section 8 of the Constitution.

This initiative measure expressly amends the Constitution by adding an article thereto; therefore, new provisions proposed to be added are printed in *italic type* to indicate that they are new.

PROPOSED ADDITION OF ARTICLE XB

The people of California find and declare that:

The marine resources of the State of California belong to all of the people of the

state and should be conserved and managed for the benefit of all users and people concerned with their diversity and abundance for present and future generations' use, needs and enjoyment. Current state laws allow the use of indiscriminate and destructive gear types (gill nets and trammel nets) for the commercial take of fish in our nearshore waters that entangle thousands of mammals (whales, dolphins, sea otters, sea lions, porpoise, etc.) sea birds and hundreds of thousands of non-targeted fish annually. These indiscriminate gear types result in the tragic death of many non-targeted species unfortunate enough to be caught in them. It has been reported that seventy-two (72) percent of what is entangled and caught in a gill net or trammel net is unmarketable, and it is returned to the ocean dead or near dead, thereby depleting our ocean resources at an accelerated rate.

In order to restore and maintain our ocean resources, increased scientific and biological research and reliable data collection is urgently needed to provide creditable information as to the long-term protection and management of the mammal and fish populations in our coastal waters. Therefore, the law governing the use of gill nets and trammel nets in our coastal waters, as well as law establishing ecological reserves for scientific and biological studies and data collection to ensure abundant ocean resources should be permanently established as follows:

Amendment to the California Constitution adding Article XB as follows:

ARTICLE XB MARINE RESOURCES PROTECTION ACT OF 1990

SECTION 1. This article shall be known and may be cited as the Marine Resources Protection Act of 1990.

SEC. 2. (a) "District" means a fish and game district as defined in the Fish and Game Code by statute on January 1, 1990.

(b) Except as specifically provided in this article, all references to Fish and Game Code sections, articles, chapters, parts, and divisions are defined as those statutes in effect on January 1, 1990.

(c) "Ocean waters" means the waters of the Pacific Ocean regulated by the state.

(d) "Zone" means the Marine Resources Protection zone established pursuant to this article. The zone consists of the following:

(1) In waters less than 70 fathoms or within one mile, whichever is less around the Channel Island consisting of the Islands of San Miguel, Santa Rosa, Santa Cruz, Anacapa, San Nicolaus, Santa Barbara, Santa Catalina, and San Clemente.

(2) The area within three nautical miles offshore of the mainland coast, and the area within three nautical miles off any manmade breakwater, between a line extending due west from Point Arguello and a line extending due west from the Mexican border.

(3) In waters less than 35 fathoms between a line running 180 degrees true from Point Fermin and a line running 270 degrees true from the south jetty of Newport Harbor.

SEC. 3. (a) From January 1, 1991, to December 31, 1991, inclusive, gill nets or trammel nets may only be used in the zone pursuant to a nontransferable permit issued by the Department of Fish and Game pursuant to Section 5.

(b) On and after January 1, 1994, gill nets and trammel nets shall not be used in the zone.

SEC. 4. (a) Notwithstanding any other provisions of law, gill nets and trammel nets may not be used in to take any species of rockfish.

(b) In ocean waters north of Point Arguello on and after the effective date of this article, the use of gill nets and trammel nets shall be regulated by the provisions of Article 4 (commencing with Section 8660), Article 5 (commencing with Section 8680) and Article 6 (commencing with Section 8720) of Chapter 3 of Part 3 of Division 6 of the Fish and Game Code, or any regulation or order issued pursuant to these articles, in effect on January 1, 1990, except that as to Sections 8680, 8681, 8681.7, and 8682, and subdivisions (a) through (f), inclusive of Section 8681.5 of the Fish and Game Code, or any regulation or order issued pursuant to these sections, the provisions in effect on January 1, 1989, shall control where not in conflict with other provisions of this article, and shall be applicable to all ocean waters. Notwithstanding the provisions of this section, the Legislature shall not be precluded from imposing more restrictions on the use and/or possession of gill nets or trammel nets. The Director of the Department of Fish and Game shall not authorize the use of gill nets or trammel nets in any area where the use is not permitted even if the director makes specified findings.

SEC. 5. The Department of Fish and Game shall issue a permit to use a gill net or trammel net in the zone for the period specified in subdivision (a) of Section 3 to any applicant who meets both of the following requirements:

(a) Has a commercial fishing license issued pursuant to Sections 7850-7852.3 of the Fish and Game Code.

(b) Has a permit issued pursuant to Section 8681 of the Fish and Game Code and is presently the owner or operator of a vessel equipped with a gill net or trammel net.

SEC. 6. The Department of Fish and Game shall charge the following fees for permits issued pursuant to Section 5 pursuant to the following schedule:

Calendar Year Fee 1991 $250 1992 500 1993 1,000

SEC. 7. (a) Within 90 days after the effective date of this section, every person who intends to seek the compensation provided in subdivision (b) shall notify the Department of Fish and Game, on forms provided by the department, of that intent. Any person who does not submit the form within that 90-day period shall not be compensated pursuant to subdivision (b). The department shall publish a list of all persons submitting the form within 120 days after the effective date of this section.

(b) After July 1, 1993, and before January 1, 1994, any person who holds a permit issued pursuant to Section 5 and operates in the zone may surrender that permit to the department and agree to permanently discontinue fishing with gill or trammel nets in

the zone, for which or she shall receive, beginning on July 1, 1993, a one time compensation which shall be based upon the average annual ex vessel value of the fish other than any species of rockfish landed by a fisherman, which were taken pursuant to a valid general gill net or trammel net permit issued pursuant to Sections 8681 and 8682 of the Fish and Game Code within the zone during the years 1983 to 1987, inclusive. The department shall verify those landings by reviewing logs and landing receipts submitted to it. Any person who is denied compensation by the department as a result of the department's failure to verify landings may appeal that decision to the Fish and Game Commission.

(c) The State Board of Control shall, prior to the disbursement of any funds, verify the eligibility of each person seeking compensation and the amount of the compensation to be provided in order to ensure compliance with this section.

(d) Unless the Legislature enacts any required enabling legislation to implement this section on or before July 1, 1993, no compensation shall be paid under this article.

SEC. 8. (a) There is hereby created by the Marine Resources Protection Account in the Fish and Game Preservation Fund. On and after January 1, 1991, the Department of Fish and Game shall collect any and all fees required by this article. All fees received by the department pursuant to this article shall be deposited in the account and shall be expended or encumbered to compensate persons who surrender permits pursuant to Section 7 or to provide for administration of this article. All funds received by the department during any fiscal year pursuant to this article which are not expended during that fiscal year to compensate persons as set forth in Section 7 or to provide for administration of this article shall be carried over into the following fiscal year and shall be used only for those purposes. All interest accrued from the department's retention of fees received pursuant to this article shall be credited to the account. The accrued interest may only be expended for the purposes authorized by this article. The account shall continue in existence, and the requirement to pay fees under this article shall remain in effect, until the compensation provided in Section 7 has been fully funded or until January 1, 1995, whichever occurs first. (b) An amount, not to exceed 15 percent of the total annual revenues deposited in the account excluding any interest accrued or any funds carried over from a prior fiscal year may be expended for the administration of this article.

(c) In addition to a valid California sportfishing license issued pursuant to Sections 7149, 7149.1 or 7149.2 of the Fish and Game Code and any applicable sport license stamp issued pursuant to the Fish and Game Code, a person taking fish from ocean waters south of a line extending due west from Point Arguello for sport purposes shall have permanently affixed to that person's sportfishing license a marine resources protection stamp which may be obtained from the department upon payment of a fee of three dollars ($3). This subdivision does not apply to any one-day fishing license.

(d) In addition to a valid California commercial passenger fishing boat license required by Section 7920 of the Fish and Game Code, the owner of any boat or vessel who, for profit, permits any person to fish from the boat or vessel in ocean waters south of a line extending due west from Point Arguello, shall obtain and permanently affix to the license a commercial marine resources protection stamp which may be obtained from the department upon pursuant of a fee of three dollars ($3).

(e) The department may accept contributions or donations from any person who wishes to donate money to be used for the compensation of commercial gill net and trammel net fishermen who surrender permits under this article.

(f) This section shall become inoperative on January 1, 1995.

SEC. 9. Any funds remaining in the Marine Resources Protection Account in the Fish and Game Preservation Fund on or after January 1, 1995, shall, with the approval of the Fish and Game Commission, be used to provide grants to colleges, universities and other bonafide scientific research groups to fund marine resource related scientific research within the ecological reserves established by Section 14 of this act.

SEC. 10. On or before December 31 of each year, the Director of Fish and Game shall prepare and submit a report to the Legislature regarding the implementation of this article including an accounting of all funds.

SEC. 11. It is unlawful for any person to take, possess, receive, transport, purchase, sell, barter, or process any fish obtained in violation of this article.

SEC. 12. To increase the state's scientific and biological information on the ocean fisheries of this state, the Department of Fish and Game shall establish a program whereby it can monitor an evaluate the daily landings of fish by commercial fishermen who are permitted under this article to take these fish. The cost of implementing this monitoring program shall be borne by the commercial fishing industry.

SEC. 13. (a) The penalty for a first violation of the provisions of Sections 3 and 4 of this article is a fine of not less than one thousand dollars ($1,000) and not more than five thousand dollars ($5,000) and a mandatory suspension of any license, permit or stamp to take, receive, transport, purchase, sell, barter or process fish for commercial purposes for six months. The penalty for a second or subsequent violation of the provisions of Sections 3 and 4 of this article is a fine of not less than two thousand five hundred dollars ($2,500) and not more than ten thousand dollars ($10,000) and a mandatory suspension of any license, permit or stamp to take, receive, transport, purchase, sell, barter, or process fish for commercial purposes for one year.

(b) Notwithstanding any other provisions of law, a violation of Section 8 of this article shall be deemed a violation of the provisions of Section 7145 of the Fish and Game Code and the penalty for such violation shall be consistent with the provisions of Section 12002.2 of said code.

(c) If a person convicted of a violation of Section 3, 4, or 8 of this article is granted probation, the court shall impose as a term or condition of this probation, in addition to any other term or condition of probation, that the person pay at least the minimum fine prescribed in this section.

SEC. 14. Prior to January 1, 1994, the Fish and Game Commission shall establish four new ecological reserves in ocean waters along the mainland coast. Each ecological reserve shall have a surface area of at least two square miles. The commission shall restrict the use of these ecological reserves to scientific research relating to the management and enhancement of marine resources.

SEC. 15. This article does not preempt or supersede any other closures to protect any other wildlife, including sea otters, whales, and shorebirds.

SEC. 16. If any provision of this article or the application thereof to any person or circumstances is held invalid, that invalidity shall not affect other provisions or applications of this article which can be given effect without the invalid provisions or application, and to this end the provisions of this article are severable.

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Full Text

Record: 956

Proposition #	**139**
Title	**PRISON INMATE LABOR. TAX CREDIT.**
Year/Election	**1990** general
Proposition type	initiative constitutional amendment and statute
Popular vote	Yes: 3,867,147 (54.05%); No: 3,288,144 (45.95%)
Pass/Fail	Pass

Summary

. Amends state Constitution to permit state prison and county jail officials to contract with public entities, businesses and others, for inmate labor.

. Limits inmate labor during strike or lockout situations.

. Adds statutes requiring state prison director to establish joint venture programs for employment of inmates.

. Requires inmate wages be comparable to non-inmate wages for similar work.

. Makes inmate wages subject to deductions for: taxes, room and board, lawful restitution fines or victim compensation, and family support.

. Allows inmate's employer ten percent of wage tax credit against defined state taxes.

Summary of Legislative Analyst's Estimate of Net State and Local Government Fiscal Impact:

. This measure would likely result in net savings to the state because of wage deductions to offset cost of incarceration, reduction in amount of time spent in prison due to participation in joint venture program, and decreased state and local costs due to additional family support payments reducing public assistance costs.

. These savings would be partially offset by costs due to revenue loss resulting from employer tax credits and possible additional administrative costs to operate program.

. The magnitude of savings is impossible to quantify.

. The measure's impact on local governments is impossible to estimate because the

contents of local ordinances implementing contracts for use of jail labor are unknown.

. Unknown indirect fiscal effects may occur to the extent this measure affects the number of jobs available in the private sector.

Analysis

Analysis by the Legislative Analyst

Background

Currently, some inmates in state prison and local jails participate in various work programs. There are approximately 37,000 inmates currently working in the state prison system. Of that number, nearly 8,000 work in prison industries in various jobs, such as manufacturing furniture for state and local government offices. The remainder perform support services related to the operation of the prison system -- for example, maintaining prison grounds. The programs are intended to reduce inmate idleness, minimize the cost of imprisonment, provide an incentive for good behavior, and provide job training.

There are restrictions on the use of inmates to perform work. For example, the California Constitution prohibits contracting with any private agency for the use of state prison or local jail inmate labor. In addition, if inmates produce a product, the product can only be sold to state and local governments. In most state prisons, there are not enough jobs for all the inmates. In local jails, the number and types of jobs vary.

State prison inmates who participate in work programs earn "credits" which reduce the amount of time they spend in prison. Work programs also provide inmates an opportunity to earn money for use upon release from prison. Inmates in local jails may receive similar credits.

Proposal

This measure amends the California Constitution to allow state and local inmates to perform work for private organizations.

The key provisions of the measure are described below.

Contracts for the Use of Prison and Jail Labor. The measure allows state prison and local jail officials to contract with private organizations for the use of inmate labor. State prison contracts would be governed by rules and regulations established by the Director of Corrections. Jail contracts would be governed by local ordinances.

Joint Venture Program in State Department of Corrections. This measure requires the state to establish inmate labor contracts through a new "joint venture" program. The program requires the Department of Corrections to enter into joint venture programs with public and private organizations or businesses for the purpose of employing inmates. The measure establishes the Joint Venture Policy Advisory Board to govern the program. The board would consist of the Director of Corrections, the Director of the Employment Development Department, and five members appointed by the Governor. The members appointed by the Governor include one member representing industry, one member representing organized labor, and three public members.

Companies that participate in a joint venture program would be allowed to lease real property on prison grounds at or below market rates in order to set up work programs. Products and services produced by the programs would be available for sale to the public.

The measure establishes provisions regarding inmate wages, tax credits, and the use of inmates to replace striking workers.

Inmate Wages. The measure requires that inmates be paid wages that are comparable to the wages paid to noninmate employees for similar work.

The measure authorizes the Director of Corrections to deduct up to 80 percent of an inmate's wages for: (1) federal, state, and local taxes, (2) charges for the costs of the inmate's room and board in prison, (3) contributions to a victim restitution fund, and (4) support of the inmate's family. The specific amounts withheld for room and board, victim restitution, and family support are left to the discretion of the Director of the Department of Corrections.

Tax Incentives. The measure provides state income tax incentives in the form of tax credits for businesses to enter into a joint venture program with the state Department of Corrections. Participating companies would be allowed a tax credit of 10 percent of the amount of wages paid to each inmate. This means that for each dollar the employer pays an inmate in the program, the employer can reduce business income taxes owed to the state by 10 cents. (The credit does not apply to any programs that employ local jail inmates.)

Labor Disputes. The measure restricts the ability of contractors to replace striking workers with inmate labor.

Contracts for Local Jail Labor. The measure allows contracting for the use of local jail inmate labor and provides that such contracts be governed by local ordinances. However, the measure does not specify the content of the local ordinances.

Fiscal Effect

This measure would likely result in net savings to the state. Savings would be generated by (1) reductions in the amount of time inmates would spend in prison as a result of earning work credits from participation in the joint venture program, (2) deducting a portion of prison inmates' wages to offset the cost of incarceration, and (3) decreased state and local costs due to additional family support payments reducing public assistance costs. These savings would be partially offset by costs due to (1) the state revenue loss resulting from the employer tax credits and (2) possible additional administrative costs to operate the program. The magnitude of the savings is impossible to quantify and would depend on the number of inmates employed, the amount of wages paid, and the extent to which the state withholds inmate wages to offset the cost of incarceration.

It is not possible to estimate the impact of the measure on local governments. This is because local ordinances that would implement contracts for use of jail labor are not required to contain specific fiscal provisions.

In addition to the direct fiscal effects, the measure also could have unknown indirect fiscal effects on the state and local governments, depending on how it affects such factors as the number of jobs in the private sector and the profits of firms choosing to use inmate labor.

For **Argument in Favor of Proposition 139**

It now costs taxpayers $20,000 per year to maintain a convicted criminal in state prison. Think about it -- $20,000 per convict per year for food, clothing, shelter, medical and dental expenses and to provide adequate security.

All told. California taxpayers are paying $2 BILLION every year to keep over 95,000 criminals behind bars!

Prisoners don't work to pay part of their upkeep. ISN'T IT ABOUT TIME THAT THEY DID?

Prisoners don't work to pay restitution to their victims. ISN'T IT ABOUT TIME THAT THEY DID?

You can make it happen by voting YES ON PROPOSITION 139.

For years, we have tried to get the California Legislature to pass a Constitutional Amendment that would put prisoners to work.

All the facts support this idea:

1. Taxpayers would save because a portion of inmates' wages would go toward paying part of their room and board, taxes, and compensation for victims of their crimes.

2. Prisoners would learn good work habits and job skills that would help them get jobs after they are released, making it less likely for them to return to a life of crime.

3. Studies have shown that inmates who participate in existing prison work programs have a much better record staying *out* of prison once they are back in society, compared to those convicts who don't work.

AND THE REDUCTION OF PRISONERS RETURNING TO THE CORRECTIONAL SYSTEM WOULD BE THE GREATEST SAVINGS. FOR EVERY INMATE NOT RETURNING TO PRISON, TAXPAYERS WOULD SAVE $20,000 A YEAR AND WE WOULD HAVE FEWER VICTIMS OF CRIME.

We are proud that over ONE MILLION Californians signed our petitions.

Yet, some special interest groups oppose this program because they say prison inmate labor will take away jobs from honest California citizens. *THIS IS FALSE.* Inmate employment will support emerging California industries and create, retain or reclaim jobs now being exported overseas. And inmates may not be used as

strikebreakers under this proposition.

Today, the law abiding citizens of California are paying double for criminals.

We pay by being the victims of their crimes, then we pay $2 BILLION a year to keep them in prison, just so they can sit around and do nothing to pay for their crime, their upkeep or reform themselves.

Why should law abiding citizens have to work and pay taxes to support a free ride for convicted criminals. *When it comes to the cost of crime, it's the criminal who owes a debt to society, not the taxpayer.*

PUT AN END TO THIS UNFAIRNESS. NO MORE FREE RIDE FOR FELONS!

PUT PRISONERS TO WORK. VOTE YES ON PROPOSITION 139.

FOR(au) George Deukmejian |t Governor, State of California

FOR(au) Don Novey |t President, California Correctional Peace Officers Association

FOR(au) Doris Tate |t President, Coalition of Victims Equal Rights

Rebuttal **Rebuttal to Argument in Favor of Proposition 139**

PROPOSITION 139 WILL COST TAXPAYERS, RATHER THAN SAVE MONEY.

PRIVATE EMPLOYMENT OF PRISONERS WILL COST CALIFORNIANS UP TO $34 MILLION A YEAR!

The portion of prisoners' wages the state collects to cover imprisonment is MORE THAN OFFSET by Proposition 139's EXPENSES AND SUBSIDIES TO PROFITABLE CORPORATIONS.

TAXPAYER COSTS INCLUDE:

Administration -- $36 million/year. Corporate tax credits -- $6 million/year.

Plus, millions in below-market rate leases to corporations.

Plus, millions in lost income tax revenues and added welfare costs as law-abiding Californians lose their jobs to low-wage prisoners.

Proposition 139 provides massive government giveaways to lure businesses into prisons. WHY SHOULD TAXPAYERS SUBSIDIZE PROFITABLE CORPORATIONS?

THE INITIATIVE HAS ABSOLUTELY NO PROVISION FOR JOB TRAINING.

Prisoners released early under Proposition 139 will be completely unprepared to hold a job.

Unskilled prisoners will be dumped out on our streets early, to join the unemployment lines. This includes both state prison and county jail inmates.

What is desperately needed in California's antiquated prisons is a massive training program to prepare prisoners for the skills required in the job market.

Proposition 139 is a bureaucratic quick fix that won't work -- and all at taxpayer expense.

Proposition 139 will bring unemployment to California's workers. It happened in other states with similar programs. In Arizona, 400 WORKERS LOST THEIR JOBS when a major meatpacking company shifted production to a prison factory, and shut its existing plant nearby.

Save the jobs of free workers. Please vote No on Proposition 139.

Rebuttal(au) Sheriff Charles P. Gillingham |t Sheriff of Santa Clara County

Rebuttal(au) Sheriff Michael Hennessey |t Sheriff of San Francisco

Rebuttal(au) Melvin H. Jones |t President, Association for Los Angeles Deputy Sheriffs

Against **Argument Against Proposition 139**

Proposition 139 is a destructive bureaucratic dream come true. The comparable inmate work program in the California Youth Authority has cost the taxpayers $3.00 to administer for every dollar returned to the state by inmates.

It is a disorderly scheme that would not only mean government waste but mean public danger and the denial of free employer competition.

In practice it would legalize the hiring of inmates of state prisons by private employers, thus overturning the convict labor prohibition of the state constitution adopted in 1879.

Next, it would provide for the employment of county jail prisoners by private companies beyond the confines of the jails. In the neighborhoods. Anywhere.

In both situations, the employment of inmates would gravely worsen the continuing crisis of high unemployment among minority youth now desperately seeking work.

As to the public danger, the state's legislative analyst this February warned that the employment of lawbreakers in the California Youth Authority program would "compromise the security of thousands of Californians."

The State Legislature's independent fiscal analyst said that the program did not contain enough safeguards to prevent the inmates from having access to a wealth of personal information on members of the public for whom services were being processed.

Proposition 139 could expose home addresses, telephone numbers, social security numbers, departures from residences for vacation or business purposes and like matters

of personal confidence.

A California Youth Authority program, for example, involves the processing of plane reservations for a major carrier.

In both the state prison and county jail aspects of the Initiative, insurance companies, banks, realtors or any other form of business could qualify for the use of the program.

Again, both programs would discriminate against employers of free labor. The state sponsored employers would not be obliged to pay for workers' compensation insurance, unemployment insurance, vacation periods, social security or health and welfare payments.

In the case of the state prison situation, the program employers would be charged minimal leasing fees for state property use and would receive tax incentives. The program is obviously anti-free enterprise employers.

As to inmate benefits, the work program will provide no lasting skills but will release the inmates upon completion of terms with no assurance that they have been trained for anything useful in the employment market.

Further, in state prisons both the convicts and supervising free workers of the employer will be under armed guard.

In the present gang-ridden environment of too many state prisons, the prospects of competitive violence will shadow the job operations.

Proposition 139 is turning back the clock of history to chain gang memories with controlled labor being exploited to the detriment of free labor and free business.

Lastly, it is a bureaucratic escape from the state government's duty to develop adequate vocational and apprenticeship training programs for the imparting of lasting skills in the important disciplines of the private labor market.

Against(au) John F. Henning |t Executive Secretary-Treasurer, California Labor Federation

Against(au) Albin J. Gruhn |t President, California Labor Federation, AFL-CIO

Rebut Against **Rebuttal to Argument Against Proposition 139**

DON'T BE FOOLED BY THE LIBERAL SPECIAL INTEREST GROUPS. They come up with all kinds of excuses to cover up a simple fact: they don't think that criminals should have to work and earn their keep, just like the rest of us.

Inmates who work will:

-- Provide restitution and compensation to their victims of crime.

-- Reimburse the State or counties for a portion of their room and board costs.

-- Pay federal, state and local taxes.

-- Learn skills which may be used upon their return to free society.

. INMATES WILL PERFORM THEIR JOBS *INSIDE* THE PRISON WALLS, NOT OUTSIDE.

. Inmate labor program is patterned after a California Youth Authority program that has so far resulted in $277,000 paid to victims, $345,000 toward room and board costs, $181,000 for income taxes, and a lower rate of repeat offenders returning to the system. And this four-year old program has had *no security* problems.

. Inmate employment will support emerging California industries and create, retain or reclaim jobs that are now being exported overseas.

We pay by being the victims of prisoners' crimes, then we pay $2 BILLION a year to keep them in prison, while they sit around and do nothing to pay for their crime or reform themselves.

JOIN THE MORE THAN ONE MILLION CALIFORNIANS WHO SIGNED OUR PETITIONS TO PUT THIS INITIATIVE ON THE BALLOT. *END THE FELONS' FREE RIDE.*

PUT PRISONERS TO WORK. VOTE YES ON PROPOSITION 139.

Rebut Against-au George Deukmejian |t Governor, State of California

Rebut Against-au Pete Wilson |t U.S. Senator, State of California

Rebut Against-au Dan Lungren |t Attorney

Text of Prop. **Text of Proposed Law**

This initiative measure is submitted to the people in accordance with the provisions of Article II, Section 8 of the Constitution.

This initiative measure expressly amends the Constitution by repealing and adding sections thereto, and adds sections to the Government Code, the Penal Code, and the Revenue and Taxation Code; therefore, existing sections proposed to be deleted are printed in ~~strikeout type~~ and new provisions proposed to be added are printed in *italic type* to indicate that they are new.

PROPOSED LAW

PRISON INMATE LABOR INITIATIVE OF 1990

Section 1. This measure shall be known as the "Prison Inmate Labor Initiative of 1990."

Section 2. The people of the State of California find and declare that inmates who are confined in the state prison or county jails should work as hard as the taxpayers who

provide for their upkeep, and that those inmates may be required to perform work and services in order to do all of the following:

(a) Reimburse the State of California or counties for a portion of the costs associated with their incarceration.

(b) Provide restitution and compensation to the victims of crime.

(c) Encourage and maintain safety in prison and jail operations.

(d) Support their families to the extent possible.

(e) Learn skills which may be used upon their return to free society.

(f) Assist in their own rehabilitation in order to become responsible law-abiding citizens upon their release from state prison or local jail.

Section 3. Section 5 of Article XIV of the State Constitution is repealed.

~~SEC. 5. The labor of convicts shall not be let out by contract to any person, copartnership, company or corporation, and the Legislature shall, by law, provide for the working of convicts for the benefit of the state.~~

Section 4. Section 5 is added to Article XIV of the State Constitution to read:

SECTION 5. (a) The Director of Corrections or any county Sheriff or other local government official charged with jail operations, may enter into contracts with public entities, nonprofit or for profit organizations, entities, or businesses for the purpose of conducting programs which use inmate labor. Such programs shall be operated and implemented pursuant to statutes enacted by or in accordance with the provisions of the Prison Inmate Labor Initiative of 1990, and by rules and regulations prescribed by the Director of Corrections and, for county jail programs, by local ordinances.

(b) No contract shall be executed with an employer that will initiate employment by inmates in the same job classification as non-inmate employees of the same employer who are on strike, as defined in Section 1132.6 of the Labor Code, as it reads on January 1, 1990, or who are subject to lockout, as defined in Section 1132.8 of the Labor Code, as it reads on January 1, 1990. Total daily hours worked by inmates employed in the same job classification as non-inmate employees of the same employer who are on strike, as defined in Section 1132.6 of the Labor Code, as it reads on January 1, 1990, or who are subject to lockout, as defined in Section 1132.8 of the Labor Code, as it reads on January 1, 1990, shall not exceed, for the duration of the strike, the average daily hours worked for the preceding six months, or if the program has been in operation for less than six months, the average for the period of operation.

(c) Nothing in this section shall be interpreted as creating a right of inmates to work.

Section 5. Article 1.5 is added to Chapter 5 of Title 1 of Part 3 of the Penal Code to read:

Article 1.5. Joint Venture Program

2717.1. Definitions.

(a) For the purposes of this section, joint venture program means a contract entered into between the Director of Corrections and any public entity, nonprofit or for profit entity, organization, or business for the purpose of employing inmate labor.

(b) Joint venture employer means any public entity, nonprofit or for profit entity, organization, or business which contracts with the Director of Corrections for the purpose of employing inmate labor.

2717.2. The Director of Corrections shall establish joint venture programs within state prison facilities to allow joint venture employers to employ inmates confined in the state prison system for the purpose of producing goods or services. While recognizing the constraints of operating within the prison system, such programs will be patterned after operations outside of prison so as to provide inmates with the skills and work habits necessary to become productive members of society upon their release from state prison.

2717.3 The Director of Corrections shall prescribe by rules and regulations provisions governing the operation and implementation of joint venture programs, which shall be in furtherance of the findings and declarations in the Prison Inmate Labor Initiative of 1990.

2717.4. There is hereby established within the Department of Corrections the Joint Venture Policy Advisory Board. The Joint Venture Policy Advisory Board shall consist of the Director of Corrections, who shall serve as chair, the Director of the Employment Development Department, and five members, to be appointed by the Governor, three of whom shall be public members, one of whom shall represent organized labor and one of whom shall represent industry. Five members shall constitute a quorum and a vote of the majority of the members in office shall be necessary for the transaction of the business of the board. Appointed members of the board shall be compensated at the rate of two hundred dollars ($200) for each day while on official business of the board and shall be reimbursed for necessary expenses. The initial terms of the members appointed by the Governor shall be for one year (one member), two years (two members), three years (one member), and four years (one member), as determined by the Governor. After the initial term, all members shall serve for four years.

(b) The board shall advise the Director of Corrections of policies that further the purposes of the Prison Inmate Labor Initiative of 1990 to be considered in the implementation of joint venture programs.

2717.5. In establishing joint venture contracts the Director of Corrections shall consider the impact on the working people of California and give priority consideration to inmate employment which will retain or reclaim jobs in California, support emerging California industries, or crate jobs for a deficient labor market.

2717.6. (a) No contract shall be executed with a joint venture employer that will initiate employment by inmates in the same job classification as non-inmate employees

of the same employer who are on strike, as defined in Section 1132.6 of the Labor Code, as it reads on January 1, 1990, or who are subject to lockout, as defined in Section 1132.8 of the Labor Code, as it reads on January 1, 1990.

(b) Total daily hours worked by inmates employed in the same job classifications as non-inmate employees of the same joint venture employer who are on strike, as defined in Section 1132.6 of the Labor Code, as it reads on January 1, 1990, or who are subject to lockout, as defined in Section 1132.8 of the Labor Code, as it reads on January 1, 1990, shall not exceed, for the duration of the strike, the average daily hours worked for the preceding six months, or if the program has been in operation for less than six months, the average for the period of operation.

(c) The determination that a condition described in paragraph (b) above shall be made by the Director after notification by the union representing the workers on strike or subject to lockout. The limitation on work hours shall take effect 48 hours after receipt by the Director of written notice of the condition by the union.

2717.7. Notwithstanding Section 2812 of the Penal Code or any other provision of law which restricts the sale of inmate- provided services or inmate-manufactured goods, services performed and articles manufactured by joint venture programs may be sold to the public.

2717.8. The compensation of prisoners engaged in programs pursuant to contract between the Department of Corrections and joint venture employers for the purpose of conducting programs which use inmate labor shall be comparable to wages paid by the joint venture employer to non-inmate employees performing similar work for that employer. If the joint venture employer does not employ such non-inmate employees in similar work, compensation shall be comparable to wages paid for work of a similar nature in the locality in which the work is to be performed. Such wages shall be subject to deductions, as determined by the Director of Corrections, which shall not, in the aggregate, exceed 80 percent of gross wages and shall be limited to the following:

(1) Federal, state, and local taxes.

(2) Reasonable charges for room and board, which shall be remitted to the Director of Corrections.

(3) Any lawful restitution fine or contributions to any fund established by law to compensate the victims of crime of not more than 20 percent, but not less than 5 percent, of gross wages, which shall be remitted to the Director of Corrections for disbursement.

(4) Allegations for support of family pursuant to state statute, court order, or agreement by the prisoner.

Section 6. Section 14672.16 is added to the Government Code to read:

14672.16. (a) Notwithstanding Section 14670, the Director of General Services, with the consent of the Department of Corrections, or the Department of the Youth Authority may let, in the best interest of the state, any real property located within the

grounds of a facility of the Department of Corrections or the Department of the Youth Authority to a public or private entity for a period not to exceed 20 years for the purpose of conducting programs for the employment and training of prisoners or wards in institutions under the jurisdiction of the Department of Corrections or the Department of the Youth Authority.

(b) The lease may provide for the renewing of the lease for additional successive 10-year terms, but those additional terms shall not exceed three in number. Any lease of state property entered into pursuant to this section may be at less than the market value when the Director of General Services determines it will serve a statewide public purpose.

Section 7. Section 17053.6 is added to the Revenue and Taxation Code to read:

17053.6. There shall be allowed as a credit against the "net tax" (as defined by Section 17039) an amount equal to 10 percent of the amount of wages paid to each prisoner who is employed in a joint venture program established pursuant to Article 1.5 of Chapter 5 of Title 1 of Part 3 of the Penal Code, through agreement with the Director of Corrections.

Section 8. Section 23624 is added to the Revenue and Taxation Code to read:

23624. There shall be allowed as a credit against the "tax" (as defined by Section 23036) an amount equal to 10 percent of the amount of wages paid to each prisoner who is employed in a joint venture program established pursuant to Article 1.5 of Chapter 5 of Title 1 of Part 3 of the Penal Code, through agreement with the Director of Corrections.

Section 9. If any provision of this measure or the application thereof to any person or circumstances is held invalid or unconstitutional, that invalidity shall not effect other provisions or applications of the measure which can be given effect without the invalid provision or application, and to this end the provisions of this measure are severable.

Section 10. The statutory provisions contained in this measure may not be amended by the Legislature except to further its purposes by statute passed in each house by roll call vote entered in the journal, two thirds of the membership concurring, or by a statute that becomes effective only when approved by the electors.

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Full Text

Record: 1029

Proposition #	**209**
Title	**Prohibition Against Discrimination or Preferential Treatment by State and Other Public Entities.**
Year/Election	**1996** general
Proposition type	constitutional
Popular vote	Yes: 5,268,462 (54.6%); No: 4,388,733 (45.4%)
Pass/Fail	Pass
Summary	**Official Title and Summary Prepared by the Attorney General**

PROHIBITION AGAINST DISCRIMINATION OR PREFERENTIAL

TREATMENT BY STATE AND OTHER PUBLIC ENTITIES.

INITIATIVE CONSTITUTIONAL AMENDMENT.

. Prohibits the state, local governments, districts, public universities, colleges, and schools, and other government instrumentalities from discriminating against or giving preferential treatment to any individual or group in public employment, public education, or public contracting on the basis of race, sex, color, ethnicity, or national origin.

. Does not prohibit reasonably necessary, bona fide qualifications based on sex and actions necessary for receipt of federal funds.

. Mandates enforcement to extent permitted by federal law.

. Requires uniform remedies for violations. Provides for severability of provisions if invalid.

Summary of Legislative Analyst's

Estimate of Net State and Local Government Fiscal Impact:

. The measure could affect state and local programs that currently cost well in excess of $125 million annually.

. Actual savings to the state and local governments would depend on various

factors (such as future court decisions and implementation actions by government entities).

Analysis

Analysis by the Legislative Analyst

BACKGROUND

The federal, state, and local governments run many programs intended to increase opportunities for various groups -- including women and racial and ethnic minority groups. These programs are commonly called "affirmative action" programs. For example, state law identifies specific goals for the participation of women-owned and minority-owned companies on work involved with state contracts. State departments are expected, but not required, to meet these goals, which include that at least 15 percent of the value of contract work should be done by minority-owned companies and at least 5 percent should be done by women-owned companies. The law requires departments, however, to reject bids from companies that have not made sufficient "good faith efforts" to meet these goals.

Other examples of affirmative action programs include:

. Public college and university programs such as scholarship, tutoring, and outreach that are targeted toward minority or women students.

. Goals and timetables to encourage the hiring of members of "underrepresented" groups for state government jobs.

. State and local programs required by the federal government as a condition of receiving federal funds (such as requirements for minority-owned business participation in state highway construction projects funded in part with federal money).

PROPOSAL

This measure would eliminate state and local government affirmative action programs in the areas of public employment, public education, and public contracting to the extent these programs involve "preferential treatment" based on race, sex, color, ethnicity, or national origin. The specific programs affected by the measure, however, would depend on such factors as (1) court rulings on what types of activities are considered "preferential treatment" and (2) whether federal law requires the continuation of certain programs.

The measure provides exceptions to the ban on preferential treatment when necessary for any of the following reasons:

. To keep the state or local governments eligible to receive money from the federal government.

.To comply with a court order in force as of the effective date of this measure (the day after the election).

. To comply with federal law or the United States Constitution.

. To meet privacy and other considerations based on sex that are reasonably necessary to the normal operation of public employment, public education, or public contracting.

FISCAL EFFECT

If this measure is approved by the voters, it could affect a variety of state and local programs. These are discussed in more detail below.

Public Employment and Contracting

The measure would eliminate affirmative action programs used to increase hiring and promotion opportunities for state or local government jobs, where sex, race, or ethnicity are preferential factors in hiring, promotion, training, or recruitment decisions. In addition, the measure would eliminate programs that give preference to women-owned or minority-owned companies on public contracts. Contracts affected by the measure would include contracts for construction projects, purchases of computer equipment, and the hiring of consultants. These prohibitions would not apply to those government agencies that receive money under federal programs that require such affirmative action.

The elimination of these programs would result in savings to the state and local governments. These savings would occur for two reasons. First, government agencies no longer would incur costs to administer the programs. Second, the prices paid on some government contracts would decrease. This would happen because bidders on contracts no longer would need to show "good faith efforts" to use minority-owned or women-owned subcontractors. Thus, state and local governments would save money to the extent they otherwise would have rejected a low bidder -- because the bidder did not make a "good faith effort" -- and awarded the contract to a higher bidder.

Based on available information, we estimate that the measure would result in savings in employment and contracting programs that could total tens of millions of dollars each year.

Public Schools and Community Colleges

The measure also could affect funding for public schools (kindergarten through grade 12) and community college programs. For instance, the measure could eliminate, or cause fundamental changes to, voluntary desegregation programs run by school districts. (It would not, however, affect court-ordered desegregation programs.) Examples of desegregation spending that could be affected by the measure include the special funding given to (1) "magnet" schools (in those cases where race or ethnicity are preferential factors in the admission of students to the schools) and (2) designated "racially isolated minority schools" that are located in areas with high proportions of racial or ethnic minorities. We estimate that up to $60 million of state and local funds spent each year on voluntary desegregation programs may be affected by the measure.

In addition, the measure would affect a variety of public school and community college programs such as counseling, tutoring, outreach, student financial aid, and financial aid to selected school districts in those cases where the programs provide

preferences to individuals or schools based on race, sex, ethnicity, or national origin. Funds spent on these programs total at least $15 million each year.

Thus, the measure could affect up to $75 million in state spending in public schools and community colleges.

The State Constitution requires the state to spend a certain amount each year on public schools and community colleges. As a result, under most situations, the Constitution would require that funds that cannot be spent on programs because of this measure instead would have to be spent for other public school and community college programs.

University of California and

California State University

The measure would affect admissions and other programs at the state's public universities. For example, the California State University (CSU) uses race and ethnicity as factors in some of its admissions decisions. If this initiative is passed by the voters, it could no longer do so. In 1995, the Regents of the University of California (UC) changed the UC's admissions policies, effective for the 1997-98 academic year, to eliminate all consideration of race or ethnicity. Passage of this initiative by the voters might require the UC to implement its new admissions policies somewhat sooner.

Both university systems also run a variety of assistance programs for students, faculty, and staff that are targeted to individuals based on sex, race, or ethnicity. These include programs such as outreach, counseling, tutoring, and financial aid. The two systems spend over $50 million each year on programs that probably would be affected by passage of this measure.

Summary

As described above, this measure could affect state and local programs that currently cost well in excess of $125 million annually. The actual amount of this spending that might be saved as a result of this measure could be considerably less, for various reasons:

. The amount of spending affected by this measure could be less depending on (1) court rulings on what types of activities are considered "preferential treatment" and (2) whether federal law requires continuation of certain programs.

. In most cases, any funds that could not be spent for existing programs in public schools and community colleges would have to be spent on other programs in the schools and colleges.

. In addition, the amount affected as a result of this measure would be less if any existing affirmative action programs were declared unconstitutional under the United States Constitution. For example, five state affirmative action programs are currently the subject of a lawsuit. If any of these programs are found to be unlawful, then the state could no longer spend money on them -- regardless of whether this measure is in effect.

. Finally, some programs we have identified as being affected might be changed to use factors other an those prohibited by the measure. For example, a high school outreach program operated by the UC or the CSU that currently uses a factor such as ethnicity to target spending could be changed to target instead high schools with low percentages of UC or CSU applications.

For

Argument in Favor of Proposition 209

THE RIGHT THING TO DO!

A generation ago, we did it right. We passed civil rights laws to prohibit discrimination. But special interests hijacked the civil rights movement. Instead of equality, governments imposed quotas, preferences, and set-asides.

Proposition 209 is called the California Civil Rights Initiative because it restates the historic Civil Rights Act and proclaims simply and clearly: "The state shall not discriminate against, or grant preferential treatment to, any individual or group, on the basis of race, sex, color, ethnicity or national origin in the operation of public employment, public education, or public contracting."

"REVERSE DISCRIMINATION" BASED ON RACE

OR GENDER IS PLAIN WRONG!

And two wrongs don't make a right! Today, students are being rejected from public universities because of their RACE. Job applicants are turned away because their RACE does not meet some "goal" or "timetable." Contracts are awarded to high bidders because they are of the preferred RACE.

That's just plain wrong and unjust. Government should not discriminate. It must not give a job, a university admission, or a contract based on race or sex. Government must judge all people equally, without discrimination!

And, remember, Proposition 209 keeps in place all federal and state protections against discrimination!

BRING US TOGETHER!

Government cannot work against discrimination if government itself discriminates. Proposition 209 will stop the terrible programs which are dividing our people and tearing us apart. People naturally feel resentment when the less qualified are preferred. We are all Americans. It's time to bring us together under a single standard of equal treatment under the law.

STOP THE GIVEAWAYS!

Discrimination is costly in other ways. Government agencies throughout California spend millions of your tax dollars for costly bureaucracies to administer racial and gender discrimination that masquerade as "affirmative action." They waste much more of your money awarding high-bid contracts and sweetheart deals based not on the low bid, but on unfair set-asides and preferences. This money could be used for police and

fire protection, better education and other programs -- for everyone.

THE BETTER CHOICE: HELP ONLY

THOSE WHO NEED HELP!

We are individuals! Not every white person is advantaged. And not every "minority" is disadvantaged. Real "affirmative action" originally meant no discrimination and sought to provide opportunity. That's why Proposition 209 prohibits discrimination and preferences and allows any program that does not discriminate, or prefer, because of race or sex, to continue.

The only honest and effective way to address inequality of opportunity is by making sure that *all* California children are provided with the tools to compete in our society. And then let them succeed on a fair, color-blind, race-blind, gender-blind basis.

Let's not perpetuate the myth that "minorities" and women cannot compete without special preferences. Let's instead move forward by returning to the fundamentals of our democracy: individual achievement, equal opportunity and *zero tolerance for discrimination against -- or for -- any individual.*

Vote for FAIRNESS . . . not favoritism!

Reject preferences by voting YES on Proposition 209.

FOR(au) Pete Wilson |t Governor, State of California

FOR(au) Ward Connerly |t Chairman, California Civil Rights Initiative

FOR(au) Pamela A. Lewis |t Co-Chair, California Civil Rights Initiative

Rebuttal **Rebuttal to Argument in Favor of Proposition 209**

THE WRONG THING TO DO!

A generation ago, Rosa Parks launched the Civil Rights movement, which opened the door to equal opportunity for women and minorities in this country. Parks is against this deceptive initiative. Proposition 209 highjacks civil rights language and uses legal lingo to gut protections against discrimination.

Proposition 209 says it eliminates quotas, but in fact, the U.S. Supreme Court already decided -- twice -- that they are illegal. Proposition 209's real purpose is to eliminate affirmative action equal opportunity programs for qualified women and minorities including tutoring, outreach, and mentoring.

PROPOSITION 209 PERMITS DISCRIMINATION

AGAINST WOMEN.

209 changes the California Constitution to permit state and local governments to discriminate against women, excluding them from job categories.

STOP THE POLITICS OF DIVISION

Newt Gingrich, Pete Wilson, and Pat Buchanan support 209. Why? They are playing the politics of division for their own political gain. We should not allow their ambitions to sacrifice equal opportunity for political opportunism.

209 MEANS OPPORTUNITY

BASED SOLELY ON FAVORITISM.

Ward Connerly has already used his influence to get children of his rich and powerful friends into the University of California. 209 reinforces the "who you know" system that favors cronies of the powerful.

"There are those who say, we can stop now, America is a color-blind society. But it isn't yet, there are those who say we have a level playing field, but we don't yet." Retired General Colin Powell [5/25/96].

VOTE NO ON 209!!!

Rebuttal(au) Prema Mathai-Davis |t National Executive Director, YWCA of the U.S.A.
Rebuttal(au) Karen Manelis |t President, California American Association of University Women
Rebuttal(au) Wade Henderson |t Executive Director, Leadership Conference on Civil Rights
Against **Argument Against Proposition 209**

VOTE NO ON PROPOSITION 209

HARMS EQUAL OPPORTUNITY FOR WOMEN

AND MINORITIES

California law currently allows tutoring, mentoring, outreach, recruitment, and counseling to help ensure equal opportunity for women and minorities. Proposition 209 will eliminate affirmative action programs like these that help achieve equal opportunity for women and minorities in public employment, education and contracting. Instead of reforming affirmative action to make it fair for everyone, Proposition 209 makes the current problems worse.

PROPOSITION 209 GOES TOO FAR

The initiative's language is so broad and misleading that it eliminates equal opportunity programs including:

. tutoring and mentoring for minority and women students;

. affirmative action that encourages the hiring and promotion of qualified women and minorities;

. outreach and recruitment programs to encourage applicants for government jobs and contracts; and

. programs designed to encourage girls to study and pursue careers in math and science.

The independent, non-partisan California Legislative Analyst gave the following report on the effects of Proposition 209:

"[T]he measure would eliminate a variety of public school (kindergarten through grade 12) and community college programs such as counseling, tutoring, student financial aid, and financial aid to selected school districts, where these programs are targeted based on race, sex, ethnicity or national origin." [*Opinion Letter to the Attorney General,* 10/15/95].

PROPOSITION 209 CREATES A LOOPHOLE THAT

ALLOWS DISCRIMINATION AGAINST WOMEN

Currently, California women have one of the strongest state constitutional protections against sex discrimination in the country. Now it is difficult for state and local government to discriminate against women in public employment, education, and the awarding of state contracts because of their gender. Proposition 209's loophole will undo this vital state constitutional protection.

PROPOSITION 209 LOOPHOLE PERMITS STATE GOVERNMENT TO DENY WOMEN OPPORTUNITIES IN PUBLIC EMPLOYMENT, EDUCATION, AND CONTRACTING, SOLELY BASED ON THEIR GENDER.

PROPOSITION 209 CREATES MORE DIVISION IN OUR COMMUNITIES

It is time to put an end to politicians trying to divide our communities for their own political gain. "The initiative is a misguided effort that takes California down the road of division. Whether intentional or not, it pits communities against communities and individuals against each other."

-- *Reverend Kathy Cooper-Ledesma President, California Council of Churches.*

GENERAL COLIN POWELL'S POSITION ON PROPOSITION 209:

"Efforts such as the California Civil Rights Initiative which poses as an equal opportunities initiative, but which puts at risk every outreach program, sets back the gains made by women and puts the brakes on expanding opportunities for people in need."

-- *Retired General Colin Powell,* 5/25/96.

GENERAL COLIN POWELL IS RIGHT.

VOTE "NO" ON PROPOSITION 209 --

EQUAL OPPORTUNITY MATTERS

Against(au) Fran Packard |t President, League of Women Voters of California

Against(au) Rosa Parks |t Civil Rights Leader

Against(au) Maxine Blackwell |t Vice President, Congress of California Seniors, Affiliate of the National Council of Senior Citizens

Rebut Against **Rebuttal to Argument Against Proposition 209**

Don't let them change the subject. Proposition 209 bans discrimination and preferential treatment -- period. Affirmative action programs that don't discriminate or grant preferential treatment will be UNCHANGED. Programs designed to ensure that all persons -- regardless of race or gender -- are informed of opportunities and treated with equal dignity and respect will continue as before.

Note that Proposition 209 doesn't prohibit consideration of economic disadvantage. Under the existing racial-preference system, a wealthy doctor's son may receive a preference for college admission over a dishwasher's daughter simply because he's from an "underrepresented" race. THAT'S UNJUST. The state must remain free to help the economically disadvantaged, but not on the basis of race or sex.

Opponents mislead when they claim that Proposition 209 will legalize sex discrimination. Distinguished legal scholars, liberals and conservatives, have rejected that argument as ERRONEOUS. Proposition 209 adds NEW PROTECTION against sex discrimination on top of existing ones, which remain in full force and effect. It does NOTHING to any existing constitutional provisions.

Clause c is in the text for good reason. It uses the legally-tested language of the original 1964 Civil Rights Act in allowing sex to be considered only if it's a "bona fide" qualification. Without that narrow exception, Proposition 209 would require unisex bathrooms and the hiring of prison guards who strip-search inmates without regard to sex. Anyone opposed to Proposition 209 is opposed to the 1964 Civil Rights Act.

Join the millions of voters who support Proposition 209. Vote YES.

Rebut Against-au Daniel E. Lungren |t Attorney General, State of California

Rebut Against-au Quentin L. Kopp |t State Senator

Rebut Against-au Gail L. Heriot |t Professor of Law

Text of Prop. **Proposition 209: Text of Proposed Law**

This initiative measure is submitted to the people in accordance with the provisions of Article II, Section 8 of the Constitution. This initiative measure expressly amends the Constitution by adding a section thereto; therefore, new provisions proposed to be added are printed in *italic type* to indicate that they are new.

PROPOSED AMENDMENT TO ARTICLE I

Section 31 is added to Article I of the California Constitution as follows:

SEC. 31. (a) The state shall not discriminate against, or grant preferential treatment to, any individual or group on the basis of race, sex, color, ethnicity, or national origin in the operation of public employment, public education, or public contracting.

(b) This section shall apply only to action taken after the section's effective date.

(c) Nothing in this section shall be interpreted as prohibiting bona fide qualifications based on sex which are reasonably necessary to the normal operation of public employment, public education, or public contracting.

(d) Nothing in this section shall be interpreted as invalidating any court order or consent decree which is in force as of the effective date of this section.

(e) Nothing in this section shall be interpreted as prohibiting action which must be taken to establish or maintain eligibility for any federal program, where ineligibility would result in a loss of federal funds to the state.

(f) For the purposes of this section, "state" shall include, but not necessarily be limited to, the state itself, any city, county, city and county, public university system, including the University of California, community college district, school district, special district, or any other political subdivision or governmental instrumentality of or within the state.

(g) The remedies available for violations of this section shall be the same, regardless of the injured party's race, sex, color, ethnicity, or national origin, as are otherwise available for violations of then-existing California antidiscrimination law.

(h) This section shall be self-executing. If any part or parts of this section are found to be in conflict with federal law or the United States Constitution, the section shall be implemented to the maximum extent that federal law and the United States Constitution permit. Any provision held invalid shall be severable from the remaining portions of this section.

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Highlighted Table | Text of Proposition | Arguments

Full Text

Record: 981

Proposition #	**163**
Title	**Ends Taxation of Certain Food Products.**
Year/Election	**1992** general
Proposition type	initiative constitutional and statute
Popular vote	Yes: 6,967,009 (66.62%); No: 3,491,372 (33.38%)
Pass/Fail	Pass

Summary

. Amends Constitution to prohibit state and local governments from imposing sales or use taxes on food products which are exempt from such taxation under existing statutes or this initiative.

. Adds statute exempting candy, bottled water, and snack foods from sales and use taxes.

Summary of Legislative Analyst's Estimate of Net State and Local Government Fiscal Impact:

. Reduces sales and use tax revenue to the state by $210 million in the current year (1992-93) and $330 million annually thereafter.

. Reduces sales and use tax revenue to local governments by $70 million in the current year and $120 million annually thereafter.

Analysis

Analysis by the Legislative Analyst

Background

Currently, a sales and use tax is imposed on most goods purchased in this state. Because there are both state and local government components of this tax, the total sales tax rate varies from county to county. It averages, however, about 8 percent statewide.

State law does not allow the sales tax to be imposed on certain items. The tax does not apply, for example, to most food items sold for home consumption. In 1991, however, state law was changed to apply the sales tax to several food items: candy, "snack food," and bottled water.

Proposal

This measure amends the State Constitution so as to prohibit the state, or any

county, city, or special district, from imposing sales or use taxes on food products used for home consumption. Thus, the measure places the current statutory exemption for food products (which can be changed by action of the Legislature and the Governor) in the Constitution (which can only be changed by a vote of the people).

This measure also changes state law to define candy, snack foods, and bottled water as food products. As a result of this change, the measure exempts these items from the sales tax. As above, a vote of the people would be required to make them taxable.

Fiscal Effect

For the current (1992-93) fiscal year, this measure would reduce state government sales and use tax revenues by about $210 million. In addition, it would reduce local government revenue by approximately $70 million.

In subsequent years, the total revenue losses would be about $330 million for the state and approximately $120 million for local governments.

For

Argument in favor of Proposition 163

"Proposition 163" is the Don't Tax Food Initiative. It repeals the sales tax that was placed on food, bottled water, and candy in 1991.

We have a proud tradition in California of not taxing the essentials of life. And there is nothing more basic than the food and water we consume in order to survive.

Yet a food tax was passed last year. A sales tax is the most regressive levy that places the greatest burden on those who can least afford the tax. And an even worse policy is to place a sales tax on food. This is the first step toward a tax on all food products in California.

And the revenue generated for the General Fund is less than *one-half of one percent* of the overall State Budget.

The food tax not only violates a great state tradition, is unfair and cruel, but it is an administrative nightmare.

Small pies are taxed -- large pies are not.

Granola bars are taxed -- whole granola is not.

Pretzels are taxed -- peanuts are not.

Bottled water is taxed -- tap water is not.

This is nonsense. And it ought to be stopped.

"Proposition 163" stops it. It amends -- or changes -- the California State Constitution to prohibit forever state and local governments from imposing sales or use

taxes on bottled water, candy and food products which are exempt from such taxation under existing statutes.

Taxes ought to be fair to all California taxpayers.

Taxing food is a bad idea but arbitrarily and confusingly taxing certain foods is even worse.

This tax should be dumped.

"Proposition 163" repeals the food tax.

Vote YES on "Proposition 163."

FOR(au) Richard E. Floyd |t Member of the Assembly, 53rd District

FOR(au) Peter Jensen |t Executive Director, Calif. Bottled Water Assoc.

FOR(au) Jackie Speier |t Member of the Assembly, 19th District

Against(au) No argument against Proposition 163 was filed.

Text of Prop. Proposition 163: Text of Proposed Law

This initiative measure is submitted to the people in accordance with the provisions of Article 11, Section 8 of the Constitution.

This initiative measure expressly amends the Constitution by adding a section thereto, and amends a section of the Revenue and Taxation Code; therefore, existing provisions proposed to be deleted are printed in ~~strikeout type~~ and new provisions proposed to be added printed in *italic type* to indicate that they are new.

PROPOSED LAW

SECTION 1. Section 34 is added to Article XIII of the California Constitution to read:

SEC. 34. Neither the State of California nor any of its political subdivisions shall levy or collect a sales or use tax on the sale of, or the storage, use or other consumption in this State of food products for human consumption except as provided by statute as of the effective date of this section.

SEC. 2. Section 6359 of the Revenue and Taxation Code, as amended by Chapter 88 of the Statutes of 1991, is amended to read:

6359. (a) There are exempted from the taxes imposed by this part the gross receipts from the sale of and the storage, use, or other consumption in this state of food products for human consumption.

(b) For the purposes of this section, "food products" include all of the following:

(1) Cereals and cereal products, oleomargarine, meat and meat products, fish and fish products, eggs and egg products, vegetables and vegetable products, fruit and fruit

products, spices and salt, sugar and sugar products, ~~other than~~ candy ~~or~~ *gum*, confectionery, coffee and coffee substitutes, tea, and cocoa and cocoa products ~~, other than candy or confectionery~~.

(2) Milk and milk products, milkshakes, malted milks, and any other similar type beverages which are composed at least in part of milk or a milk product and which require the use of milk or a milk product in their preparation.

(3) All fruit juices, vegetable juices, and other beverages, whether liquid or frozen, ~~except~~ *including* bottled water, *but excluding* spirituous, malt or vinous liquors or carbonated beverages.

(c) For purposes of this section, "food products" do not include ~~any of the following:~~

(1) Medicines *medicines* and preparations in liquid, powdered, granular tablet, capsule, lozenge, and pill form sold as dietary supplements or adjuncts.

~~(2) Snack foods. For purpose of this section, "snack foods" means cookies, crackers (excluding soda, graham, and arrowroot crackers), potato chips, snack cakes or pies, corn or tortilla chips, pretzels, granola snacks, popped popcorn, fabricated chips, and fabricated snacks. "Snack foods" include only items that are sold in a condition suitable for, consumption without further processing such as cooking, heating, or thawing.~~

(d) None of the exemptions provided for in this section apply to any of the following:

(1) When the food products are served as meals on or off the premises of the retailer.

(2) When the food products are furnished, prepared, or served for consumption at tables, chairs, or counters or from trays, glasses, dishes, or other tableware whether provided by the retailer or by a person with whom the retailer contracts to furnish, prepare, or serve food products to others.

(3) When the food products are ordinarily sold for immediate consumption on or near a location at which parking facilities are provided primarily for the use of patrons in consuming the products purchased at the location, even though such products are sold on a "take out" or "to go" order and are actually packaged or wrapped and taken from the premises of the retailer.

(4) When the food products are sold for consumption within a place, the entrance to which is subject to an admission charge, except for national and state parks and monuments, marinas, campgrounds, and recreational vehicle parks.

(5) When the food products are sold through a vending machine.

(6) When the food products sold are furnished in a form suitable for consumption on the seller's premises, and both of the following apply:

(A) Over 80 percent of the seller's gross receipts are from the sale of food products.

(B) Over 80 percent of the seller's retail sales of food products are sales subject to tax pursuant to paragraph (1), (2), (3), or (7)

(7) When the food products are sold as hot prepared food products.

(e) "Hot prepared food products," for the purposes of paragraph (7) of subdivision (d), include a combination of hot and cold food items or components where a single price has been established for the combination and the food products are sold in such combination, such as a hot meal, a hot specialty dish or serving, or a hot sandwich or a hot pizza, including any cold components or side items. Paragraph (7) of subdivision (d) shall not apply to a sale for a separate price of bakery goods or beverages (other than bouillon, consomme, or soup), or where the food product is purchased cold or frozen; "hot prepared food products" means those products items, or components which have been prepared for sale in a heated condition and which are sold at any temperature which is higher than the air temperature of the room or place where they are sold.

~~(f) The amendments to this section by the act adding this subdivision shall become operative on July 15, 1991.~~

SEC. 3. Section 2 of this act shall take effect December 1,1992. Section 1 of this act shall take effect January 1, 1993.

SEC. 4. The provisions of Section 1 of this act shall supersede all provisions of this Constitution and laws enacted thereunder in conflict therewith.

SEC. 5. If any provision of this measure, 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 measure are severable.

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Full Text

Record: 1029

Proposition #	**209**
Title	**Prohibition Against Discrimination or Preferential Treatment by State and Other Public Entities.**
Year/Election	**1996** general
Proposition type	constitutional
Popular vote	Yes: 5,268,462 (54.6%); No: 4,388,733 (45.4%)
Pass/Fail	Pass
Summary	**Official Title and Summary Prepared by the Attorney General**

PROHIBITION AGAINST DISCRIMINATION OR PREFERENTIAL

TREATMENT BY STATE AND OTHER PUBLIC ENTITIES.

INITIATIVE CONSTITUTIONAL AMENDMENT.

. Prohibits the state, local governments, districts, public universities, colleges, and schools, and other government instrumentalities from discriminating against or giving preferential treatment to any individual or group in public employment, public education, or public contracting on the basis of race, sex, color, ethnicity, or national origin.

. Does not prohibit reasonably necessary, bona fide qualifications based on sex and actions necessary for receipt of federal funds.

. Mandates enforcement to extent permitted by federal law.

. Requires uniform remedies for violations. Provides for severability of provisions if invalid.

Summary of Legislative Analyst's

Estimate of Net State and Local Government Fiscal Impact:

. The measure could affect state and local programs that currently cost well in excess of $125 million annually.

. Actual savings to the state and local governments would depend on various

factors (such as future court decisions and implementation actions by government entities).

Analysis

Analysis by the Legislative Analyst

BACKGROUND

The federal, state, and local governments run many programs intended to increase opportunities for various groups -- including women and racial and ethnic minority groups. These programs are commonly called "affirmative action" programs. For example, state law identifies specific goals for the participation of women-owned and minority-owned companies on work involved with state contracts. State departments are expected, but not required, to meet these goals, which include that at least 15 percent of the value of contract work should be done by minority-owned companies and at least 5 percent should be done by women-owned companies. The law requires departments, however, to reject bids from companies that have not made sufficient "good faith efforts" to meet these goals.

Other examples of affirmative action programs include:

. Public college and university programs such as scholarship, tutoring, and outreach that are targeted toward minority or women students.

. Goals and timetables to encourage the hiring of members of "underrepresented" groups for state government jobs.

. State and local programs required by the federal government as a condition of receiving federal funds (such as requirements for minority-owned business participation in state highway construction projects funded in part with federal money).

PROPOSAL

This measure would eliminate state and local government affirmative action programs in the areas of public employment, public education, and public contracting to the extent these programs involve "preferential treatment" based on race, sex, color, ethnicity, or national origin. The specific programs affected by the measure, however, would depend on such factors as (1) court rulings on what types of activities are considered "preferential treatment" and (2) whether federal law requires the continuation of certain programs.

The measure provides exceptions to the ban on preferential treatment when necessary for any of the following reasons:

. To keep the state or local governments eligible to receive money from the federal government.

.To comply with a court order in force as of the effective date of this measure (the day after the election).

. To comply with federal law or the United States Constitution.

. To meet privacy and other considerations based on sex that are reasonably necessary to the normal operation of public employment, public education, or public contracting.

FISCAL EFFECT

If this measure is approved by the voters, it could affect a variety of state and local programs. These are discussed in more detail below.

Public Employment and Contracting

The measure would eliminate affirmative action programs used to increase hiring and promotion opportunities for state or local government jobs, where sex, race, or ethnicity are preferential factors in hiring, promotion, training, or recruitment decisions. In addition, the measure would eliminate programs that give preference to women-owned or minority-owned companies on public contracts. Contracts affected by the measure would include contracts for construction projects, purchases of computer equipment, and the hiring of consultants. These prohibitions would not apply to those government agencies that receive money under federal programs that require such affirmative action.

The elimination of these programs would result in savings to the state and local governments. These savings would occur for two reasons. First, government agencies no longer would incur costs to administer the programs. Second, the prices paid on some government contracts would decrease. This would happen because bidders on contracts no longer would need to show "good faith efforts" to use minority-owned or women-owned subcontractors. Thus, state and local governments would save money to the extent they otherwise would have rejected a low bidder -- because the bidder did not make a "good faith effort" -- and awarded the contract to a higher bidder.

Based on available information, we estimate that the measure would result in savings in employment and contracting programs that could total tens of millions of dollars each year.

Public Schools and Community Colleges

The measure also could affect funding for public schools (kindergarten through grade 12) and community college programs. For instance, the measure could eliminate, or cause fundamental changes to, voluntary desegregation programs run by school districts. (It would not, however, affect court-ordered desegregation programs.) Examples of desegregation spending that could be affected by the measure include the special funding given to (1) "magnet" schools (in those cases where race or ethnicity are preferential factors in the admission of students to the schools) and (2) designated "racially isolated minority schools" that are located in areas with high proportions of racial or ethnic minorities. We estimate that up to $60 million of state and local funds spent each year on voluntary desegregation programs may be affected by the measure.

In addition, the measure would affect a variety of public school and community college programs such as counseling, tutoring, outreach, student financial aid, and financial aid to selected school districts in those cases where the programs provide

preferences to individuals or schools based on race, sex, ethnicity, or national origin. Funds spent on these programs total at least $15 million each year.

Thus, the measure could affect up to $75 million in state spending in public schools and community colleges.

The State Constitution requires the state to spend a certain amount each year on public schools and community colleges. As a result, under most situations, the Constitution would require that funds that cannot be spent on programs because of this measure instead would have to be spent for other public school and community college programs.

University of California and

California State University

The measure would affect admissions and other programs at the state's public universities. For example, the California State University (CSU) uses race and ethnicity as factors in some of its admissions decisions. If this initiative is passed by the voters, it could no longer do so. In 1995, the Regents of the University of California (UC) changed the UC's admissions policies, effective for the 1997-98 academic year, to eliminate all consideration of race or ethnicity. Passage of this initiative by the voters might require the UC to implement its new admissions policies somewhat sooner.

Both university systems also run a variety of assistance programs for students, faculty, and staff that are targeted to individuals based on sex, race, or ethnicity. These include programs such as outreach, counseling, tutoring, and financial aid. The two systems spend over $50 million each year on programs that probably would be affected by passage of this measure.

Summary

As described above, this measure could affect state and local programs that currently cost well in excess of $125 million annually. The actual amount of this spending that might be saved as a result of this measure could be considerably less, for various reasons:

. The amount of spending affected by this measure could be less depending on (1) court rulings on what types of activities are considered "preferential treatment" and (2) whether federal law requires continuation of certain programs.

. In most cases, any funds that could not be spent for existing programs in public schools and community colleges would have to be spent on other programs in the schools and colleges.

. In addition, the amount affected as a result of this measure would be less if any existing affirmative action programs were declared unconstitutional under the United States Constitution. For example, five state affirmative action programs are currently the subject of a lawsuit. If any of these programs are found to be unlawful, then the state could no longer spend money on them -- regardless of whether this measure is in effect.

. Finally, some programs we have identified as being affected might be changed to use factors other an those prohibited by the measure. For example, a high school outreach program operated by the UC or the CSU that currently uses a factor such as ethnicity to target spending could be changed to target instead high schools with low percentages of UC or CSU applications.

For

Argument in Favor of Proposition 209

THE RIGHT THING TO DO!

A generation ago, we did it right. We passed civil rights laws to prohibit discrimination. But special interests hijacked the civil rights movement. Instead of equality, governments imposed quotas, preferences, and set-asides.

Proposition 209 is called the California Civil Rights Initiative because it restates the historic Civil Rights Act and proclaims simply and clearly: "The state shall not discriminate against, or grant preferential treatment to, any individual or group, on the basis of race, sex, color, ethnicity or national origin in the operation of public employment, public education, or public contracting."

"REVERSE DISCRIMINATION" BASED ON RACE

OR GENDER IS PLAIN WRONG!

And two wrongs don't make a right! Today, students are being rejected from public universities because of their RACE. Job applicants are turned away because their RACE does not meet some "goal" or "timetable." Contracts are awarded to high bidders because they are of the preferred RACE.

That's just plain wrong and unjust. Government should not discriminate. It must not give a job, a university admission, or a contract based on race or sex. Government must judge all people equally, without discrimination!

And, remember, Proposition 209 keeps in place all federal and state protections against discrimination!

BRING US TOGETHER!

Government cannot work against discrimination if government itself discriminates. Proposition 209 will stop the terrible programs which are dividing our people and tearing us apart. People naturally feel resentment when the less qualified are preferred. We are all Americans. It's time to bring us together under a single standard of equal treatment under the law.

STOP THE GIVEAWAYS!

Discrimination is costly in other ways. Government agencies throughout California spend millions of your tax dollars for costly bureaucracies to administer racial and gender discrimination that masquerade as "affirmative action." They waste much more of your money awarding high-bid contracts and sweetheart deals based not on the low bid, but on unfair set-asides and preferences. This money could be used for police and

fire protection, better education and other programs -- for everyone.

THE BETTER CHOICE: HELP ONLY

THOSE WHO NEED HELP!

We are individuals! Not every white person is advantaged. And not every "minority" is disadvantaged. Real "affirmative action" originally meant no discrimination and sought to provide opportunity. That's why Proposition 209 prohibits discrimination and preferences and allows any program that does not discriminate, or prefer, because of race or sex, to continue.

The only honest and effective way to address inequality of opportunity is by making sure that *all* California children are provided with the tools to compete in our society. And then let them succeed on a fair, color-blind, race-blind, gender-blind basis.

Let's not perpetuate the myth that "minorities" and women cannot compete without special preferences. Let's instead move forward by returning to the fundamentals of our democracy: individual achievement, equal opportunity and *zero tolerance for discrimination against -- or for -- any individual.*

Vote for FAIRNESS . . . not favoritism!

Reject preferences by voting YES on Proposition 209.

FOR(au) Pete Wilson |t Governor, State of California

FOR(au) Ward Connerly |t Chairman, California Civil Rights Initiative

FOR(au) Pamela A. Lewis |t Co-Chair, California Civil Rights Initiative

Rebuttal **Rebuttal to Argument in Favor of Proposition 209**

THE WRONG THING TO DO!

A generation ago, Rosa Parks launched the Civil Rights movement, which opened the door to equal opportunity for women and minorities in this country. Parks is against this deceptive initiative. Proposition 209 highjacks civil rights language and uses legal lingo to gut protections against discrimination.

Proposition 209 says it eliminates quotas, but in fact, the U.S. Supreme Court already decided -- twice -- that they are illegal. Proposition 209's real purpose is to eliminate affirmative action equal opportunity programs for qualified women and minorities including tutoring, outreach, and mentoring.

PROPOSITION 209 PERMITS DISCRIMINATION

AGAINST WOMEN.

209 changes the California Constitution to permit state and local governments to discriminate against women, excluding them from job categories.

STOP THE POLITICS OF DIVISION

Newt Gingrich, Pete Wilson, and Pat Buchanan support 209. Why? They are playing the politics of division for their own political gain. We should not allow their ambitions to sacrifice equal opportunity for political opportunism.

209 MEANS OPPORTUNITY

BASED SOLELY ON FAVORITISM.

Ward Connerly has already used his influence to get children of his rich and powerful friends into the University of California. 209 reinforces the "who you know" system that favors cronies of the powerful.

"There are those who say, we can stop now, America is a color-blind society. But it isn't yet, there are those who say we have a level playing field, but we don't yet." Retired General Colin Powell [5/25/96].

VOTE NO ON 209!!!

Rebuttal(au) Prema Mathai-Davis |t National Executive Director, YWCA of the U.S.A.

Rebuttal(au) Karen Manelis |t President, California American Association of University Women

Rebuttal(au) Wade Henderson |t Executive Director, Leadership Conference on Civil Rights

Against **Argument Against Proposition 209**

VOTE NO ON PROPOSITION 209

HARMS EQUAL OPPORTUNITY FOR WOMEN

AND MINORITIES

California law currently allows tutoring, mentoring, outreach, recruitment, and counseling to help ensure equal opportunity for women and minorities. Proposition 209 will eliminate affirmative action programs like these that help achieve equal opportunity for women and minorities in public employment, education and contracting. Instead of reforming affirmative action to make it fair for everyone, Proposition 209 makes the current problems worse.

PROPOSITION 209 GOES TOO FAR

The initiative's language is so broad and misleading that it eliminates equal opportunity programs including:

. tutoring and mentoring for minority and women students;

. affirmative action that encourages the hiring and promotion of qualified women and minorities;

. outreach and recruitment programs to encourage applicants for government jobs and contracts; and

. programs designed to encourage girls to study and pursue careers in math and science.

The independent, non-partisan California Legislative Analyst gave the following report on the effects of Proposition 209:

"[T]he measure would eliminate a variety of public school (kindergarten through grade 12) and community college programs such as counseling, tutoring, student financial aid, and financial aid to selected school districts, where these programs are targeted based on race, sex, ethnicity or national origin." [*Opinion Letter to the Attorney General,* 10/15/95].

PROPOSITION 209 CREATES A LOOPHOLE THAT

ALLOWS DISCRIMINATION AGAINST WOMEN

Currently, California women have one of the strongest state constitutional protections against sex discrimination in the country. Now it is difficult for state and local government to discriminate against women in public employment, education, and the awarding of state contracts because of their gender. Proposition 209's loophole will undo this vital state constitutional protection.

PROPOSITION 209 LOOPHOLE PERMITS STATE GOVERNMENT TO DENY WOMEN OPPORTUNITIES IN PUBLIC EMPLOYMENT, EDUCATION, AND CONTRACTING, SOLELY BASED ON THEIR GENDER.

PROPOSITION 209 CREATES MORE DIVISION IN OUR COMMUNITIES

It is time to put an end to politicians trying to divide our communities for their own political gain. "The initiative is a misguided effort that takes California down the road of division. Whether intentional or not, it pits communities against communities and individuals against each other."

-- Reverend Kathy Cooper-Ledesma President, California Council of Churches.

GENERAL COLIN POWELL'S POSITION ON PROPOSITION 209:

"Efforts such as the California Civil Rights Initiative which poses as an equal opportunities initiative, but which puts at risk every outreach program, sets back the gains made by women and puts the brakes on expanding opportunities for people in need."

-- Retired General Colin Powell, 5/25/96.

GENERAL COLIN POWELL IS RIGHT.

VOTE "NO" ON PROPOSITION 209 --

EQUAL OPPORTUNITY MATTERS

Against(au) Fran Packard |t President, League of Women Voters of California

Against(au) Rosa Parks |t Civil Rights Leader

Against(au) Maxine Blackwell |t Vice President, Congress of California Seniors, Affiliate of the National Council of Senior Citizens

Rebut Against **Rebuttal to Argument Against Proposition 209**

Don't let them change the subject. Proposition 209 bans discrimination and preferential treatment -- period. Affirmative action programs that don't discriminate or grant preferential treatment will be UNCHANGED. Programs designed to ensure that all persons -- regardless of race or gender -- are informed of opportunities and treated with equal dignity and respect will continue as before.

Note that Proposition 209 doesn't prohibit consideration of economic disadvantage. Under the existing racial-preference system, a wealthy doctor's son may receive a preference for college admission over a dishwasher's daughter simply because he's from an "underrepresented" race. THAT'S UNJUST. The state must remain free to help the economically disadvantaged, but not on the basis of race or sex.

Opponents mislead when they claim that Proposition 209 will legalize sex discrimination. Distinguished legal scholars, liberals and conservatives, have rejected that argument as ERRONEOUS. Proposition 209 adds NEW PROTECTION against sex discrimination on top of existing ones, which remain in full force and effect. It does NOTHING to any existing constitutional provisions.

Clause c is in the text for good reason. It uses the legally-tested language of the original 1964 Civil Rights Act in allowing sex to be considered only if it's a "bona fide" qualification. Without that narrow exception, Proposition 209 would require unisex bathrooms and the hiring of prison guards who strip-search inmates without regard to sex. Anyone opposed to Proposition 209 is opposed to the 1964 Civil Rights Act.

Join the millions of voters who support Proposition 209. Vote YES.

Rebut Against-au Daniel E. Lungren |t Attorney General, State of California

Rebut Against-au Quentin L. Kopp |t State Senator

Rebut Against-au Gail L. Heriot |t Professor of Law

Text of Prop. **Proposition 209: Text of Proposed Law**

This initiative measure is submitted to the people in accordance with the provisions of Article II, Section 8 of the Constitution. This initiative measure expressly amends the Constitution by adding a section thereto; therefore, new provisions proposed to be added are printed in *italic type* to indicate that they are new.

PROPOSED AMENDMENT TO ARTICLE I

Section 31 is added to Article I of the California Constitution as follows:

SEC. 31. (a) The state shall not discriminate against, or grant preferential treatment to, any individual or group on the basis of race, sex, color, ethnicity, or national origin in the operation of public employment, public education, or public contracting.

(b) This section shall apply only to action taken after the section's effective date.

(c) Nothing in this section shall be interpreted as prohibiting bona fide qualifications based on sex which are reasonably necessary to the normal operation of public employment, public education, or public contracting.

(d) Nothing in this section shall be interpreted as invalidating any court order or consent decree which is in force as of the effective date of this section.

(e) Nothing in this section shall be interpreted as prohibiting action which must be taken to establish or maintain eligibility for any federal program, where ineligibility would result in a loss of federal funds to the state.

(f) For the purposes of this section, "state" shall include, but not necessarily be limited to, the state itself, any city, county, city and county, public university system, including the University of California, community college district, school district, special district, or any other political subdivision or governmental instrumentality of or within the state.

(g) The remedies available for violations of this section shall be the same, regardless of the injured party's race, sex, color, ethnicity, or national origin, as are otherwise available for violations of then-existing California antidiscrimination law.

(h) This section shall be self-executing. If any part or parts of this section are found to be in conflict with federal law or the United States Constitution, the section shall be implemented to the maximum extent that federal law and the United States Constitution permit. Any provision held invalid shall be severable from the remaining portions of this section.

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Full Text

Record: 1059

Proposition #	**10**
Title	**State and County Early Childhood Development Programs. Additional Tobacco Surtax.**
Year/Election	**1998** general
Proposition type	Initiative Constitutional Amendment and Statute
Popular vote	Yes: 4,042,466 (50.5%); No: 3,962,738 (49.5%)
Pass/Fail	Pass
Summary	**Official Title and Summary prepared by the Attorney**

STATE AND COUNTY EARLY CHILDHOOD DEVELOPMENT PROGRAMS. ADDITIONAL TOBACCO SURTAX. INITIATIVE CONSTITUTIONAL AMENDMENT AND STATUTE.

. Creates state commission to provide information and materials and to formulate guidelines for establishment of comprehensive early childhood development and smoking prevention programs.

. Creates county commissions to develop strategic plans with emphasis on new programs.

. Creates trust fund for these programs. Funding for state and county commissions and programs raised by additional $.50 per pack tax on cigarette distributors and equivalent increase in state tax on distributed tobacco products.

. Funds exempt from Proposition 98 requirement that dedicates portion of general tax revenues to schools.

Summary of Legislative Analyst's Estimate of Net State and Local Government Fiscal Impact: . Raises new revenues of approximately $400 million in 1998-99 and $750 million annually thereafter for the California Children and Families First Program, to be allocated primarily to new state and county commissions for early childhood development programs.

. Results in reduced revenues for Proposition 99 health care and resources programs of about $18 million in 1998-99 and $7 million annually thereafter.

. Results in increased state General Fund revenues of about $2 million in 1998-99

and $4 million annually thereafter. Results in increased county General Fund revenues of about $3 million in 1998-99 and $6 million annually thereafter.

. Potential unknown long-term savings in state and local health, education, and other programs.

Analysis

Analysis by the Legislative Analyst

Background

Early Childhood Development Programs. Currently, state and local governments administer a variety of early childhood development programs, such as the Head Start Program, the State Preschool Program, and the Early Mental Health Initiative. In general, these types of programs focus on the social, emotional, and/or cognitive development of young children.

Tobacco Taxes. Current state law imposes an excise tax on cigarettes, which amounts to 37 cents for each pack. Of this amount, 25 cents is allocated to the Cigarette and Tobacco Products Surtax Fund (established by Proposition 99 of 1988), 10 cents is allocated for state General Fund purposes, and 2 cents is allocated to the Breast Cancer Fund. Cigarette and Tobacco Products Surtax Fund monies are earmarked for programs to reduce smoking, to provide health care services to indigents, to support tobacco-related research, and to fund resources programs (primarily in the Departments of Fish and Game and Parks and Recreation). The Breast Cancer Fund supports research and services related to breast cancer.

Current state law also imposes an excise tax on other tobacco products--such as cigars, chewing tobacco, pipe tobacco, and snuff. This excise tax is equivalent to the excise tax on cigarettes (if both taxes were calculated as a percentage of the wholesale costs of these products). All of these tax revenues are allocated to the Cigarette and Tobacco Products Surtax Fund for Proposition 99 programs.

Cigarette and tobacco product taxes are administered by the State Board of Equalization. In 1997-98, these state excise taxes generated about $450 million for Proposition 99 programs, $33 million for the Breast Cancer Fund, and $165 million for the General Fund.

In addition to the state excise tax, there is currently a *federal* excise tax on cigarettes of 24 cents per pack, as well as federal excise taxes (in varying amounts) on other tobacco products.

Proposal

Revenues

This measure imposes an additional excise tax on cigarettes of 50 cents per pack. The total state excise tax, therefore, would be 87 cents per pack.

The measure also increases the excise tax on other types of tobacco products--such as cigars, chewing tobacco, pipe tobacco, and snuff--in two ways:

. The measure imposes a *new* excise tax on these products that is equivalent (the same percentage in relation to the wholesale costs of these products) to a 50 cent per pack tax on cigarettes. Under current law, any increase in the tax on cigarettes automatically triggers an increase in the tax on other tobacco products. As a result, the measure increases the *existing* excise tax on these products by the equivalent of a 50 cent per pack increase in the tax on cigarettes, in addition to the amount above.

Thus, the measure increases the excise taxes on other tobacco products in total by the equivalent of a $1 per pack increase in the tax on cigarettes.

The measure requires that the revenues generated by the *new* excise taxes on cigarettes and other tobacco products be placed in a new special fund--the California Children and Families First Trust Fund. These revenues would:

. Fund early childhood development programs (described below).

. Offset revenue losses to Proposition 99 health education or research programs and Breast Cancer Fund programs. (As discussed in more detail later in this analysis, the revenue losses are the result of decreased sales due to the excise taxes imposed by this measure.)

The revenues resulting from the increase in the *existing* excise tax on other tobacco products would be placed in the Cigarette and Tobacco Products Surtax Fund (for Proposition 99 programs).

The additional excise tax on cigarettes would begin January 1, 1999. The increase in the excise tax on other tobacco products would begin July 1, 1999.

Expenditures

The measure establishes the California Children and Families First Program to promote and develop early childhood development programs. The program would be funded by the revenues resulting from the increased tax on cigarettes and other tobacco products. The new program would be carried out by state and county commissions.

State Commission. The measure creates a new state commission--the California Children and Families First Commission--which would be responsible for administration of the early childhood development program. The commission would be composed of seven voting members (appointed by the Governor, the Speaker of the Assembly, and the Senate Rules Committee) and two ex officio nonvoting members.

The commission would develop statewide program guidelines, distribute educational materials, provide technical assistance to the county commissions, and conduct research and evaluations of early childhood development programs. The program guidelines must address parenting education and related support services; the availability and provision of high quality, accessible, and affordable child care; and the provision of specified types of child health care and prenatal and postnatal maternal health care services.

Twenty percent of the available revenues would be allocated to the state

commission, to be spent for the following purposes:

. ***Mass Media Communications.*** Six percent for mass media communications to the general public related to: methods of child nurturing and parenting which encourage proper childhood development; the selection of child care; health and social services; the prevention of tobacco, alcohol, and drug use by pregnant women; and the detrimental effects of secondhand smoke on early childhood development.

. ***Education.*** Five percent for the development of educational materials and parental and professional education and training.

. ***Child Care.*** Three percent for programs related to the education and training of child care providers and the development of educational materials and guidelines for child care workers.

. ***Research.*** Three percent for early childhood development research and for evaluating such programs and services.

. ***Administration.*** One percent for the administrative functions of the California Children and Families First Commission.

. ***General Purposes.*** The remaining 2 percent may be used for any of the specific purposes described above, except for the administrative costs of the commission.

County Commissions. Eighty percent of the available revenues would be allocated to counties that create county commissions (consisting of five to nine members appointed by the county board of supervisors) to implement programs in accordance with strategic plans to support and improve early childhood development in the county. The formula for allocating these funds is based on the number of births in each participating county. The strategic plans must be consistent with guidelines adopted by the state commission. Two or more counties could form a joint county commission, adopt a joint county strategic plan, or implement joint programs, services, or projects.

The measure requires that funds be used to supplement and not replace existing service levels. In addition, the measure amends the California Constitution to provide that (1) the new tax revenues shall not be considered General Fund revenues for the purposes of determining the level of funding to be provided for public schools pursuant to Proposition 98 of 1988, and (2) the appropriation of revenues from the additional taxes imposed by the measure shall not be subject to the existing state or local appropriations limits. (Current law places limits on the level of certain appropriations made by the state and local governments.)

Fiscal Effect

New Revenues and Expenditures--The California Children and Families First Trust Fund. The measure would raise revenues of approximately $400 million in 1998-99 (half year) and about $750 million in 1999-00 (first full year), and slightly declining amounts annually thereafter, for the new California Children and Families First Trust Fund.

This estimate assumes that the distributors of cigarettes and other tobacco products would likely pass the full amount of the tax increase along to consumers in the form of higher prices. This, in turn, is likely to cause a decrease in taxable sales within the state for two reasons:

. First, it would result in a decrease in consumption of tobacco products within the state.

. Second, it is likely to result in some increase in out-of- state sales of tobacco products, some of which would be subsequently brought back into the state, and would not be taxed.

This decrease in sales would reduce revenues from existing state excise taxes on tobacco products for the Breast Cancer Fund and the Cigarette and Tobacco Products Surtax Fund.

Most of the revenues generated by this measure would be available to fund the costs of the California Children and Families First Program. This includes the administrative costs for the new state and county commissions and the costs of program activities. Additionally, a small amount of the new revenues (less than 1 percent) would be used to offset revenue losses to the Breast Cancer Fund. Also, about 2 percent of the new revenues would be used to offset losses to the Cigarette and Tobacco Product Surtax Fund in 1998-99, and less than 1 percent in subsequent years, as discussed below.

Other Costs. The State Board of Equalization would incur administration and enforcement costs, related to the additional excise taxes, of about $800,000 in 1998-99, $850,000 in 1999-00, and $600,000 annually thereafter. These costs would be reimbursed out of the proceeds of the new taxes.

Effect on Cigarette and Tobacco Products Surtax Fund Revenues. The measure would result in a decrease in revenues to the Cigarette and Tobacco Products Surtax Fund (Proposition 99). The decrease is due to two offsetting factors. First, to the extent that the measure results in a reduction in overall tobacco product sales, it would *decrease* the revenues resulting from the existing excise taxes on these products. Second, the measure would *increase* the revenues resulting from the *existing* excise tax on other tobacco products (cigars, snuff, etc.) that are allocated to the Cigarette and Tobacco Products Surtax Fund. As noted above, this occurs because the measure triggers an increase in this existing excise tax.

The measure requires that the revenue losses to Proposition 99 health-related education and research programs be offset by revenues resulting from the new excise taxes established by this measure. However, revenue reductions to Proposition 99 health care and resources programs would not be offset. We estimate net revenue losses of about $18 million in 1998-99 and $7 million annually thereafter for Proposition 99 health care and resources programs.

Effect on the State General Fund and Local Tax Revenues. The measure would result in a net increase in state General Fund revenues of about $2 million in 1998-99 and $4 million annually thereafter. These net increases are due to the measure's effect

on: (1) sales tax revenues (which increase because the measure would increase the price of tobacco products) and (2) existing cigarette excise tax revenues (which would decrease due to reduced sales). Also, there would be a net increase in local government sales tax revenues of about $3 million in 1998-99 and $6 million annually thereafter.

Potential Long-Term Savings. The use of tobacco products has been linked to various adverse health effects by the United States Surgeon General and numerous scientific studies. The state and local governments incur costs for providing (1) health care for low-income persons and (2) health insurance coverage for state and local government employees. Consequently, changes in state law that affect the health of the general populace--and low-income persons and public employees in particular--would affect publicly funded health care costs. To the extent that this measure results in a decrease in the consumption of tobacco products, it would probably reduce state and local health care costs over the long term. The magnitude of these savings is unknown.

Due to the potential effects of the additional expenditures on early childhood development programs, the measure also could result in state and local savings over the long term in programs such as special education. The amount of such potential savings is unknown.

For

Argument in Favor of Proposition 10

PROPOSITION 10 WILL GIVE OUR YOUNGEST CHILDREN THE HEALTHY FOUNDATION THEY NEED TO SUCCEED--IN SCHOOL AND IN LIFE.

Scientific evidence proves that the care a child receives from the prenatal through the first years of life is critical to the child's brain growth and development. It has a profound effect upon whether the child will become a productive, well-adjusted adult.

Billions are spent on remedial education and social services for children after they enter school. For too many children, this is too late.

PROPOSITION 10 WILL PROVIDE COMPREHENSIVE, INTEGRATED SERVICES FOR PRE-SCHOOL CHILDREN INCLUDING:

. Child immunizations, vision and hearing tests

. Prenatal and postnatal maternal and infant nutrition services

. Domestic violence intervention, prevention and treatment

. Treatment for children suffering from problems related to drug and alcohol abuse

. Child care, health care and social services not provided by existing programs

PROPOSITION 10 WILL MORE THAN DOUBLE CALIFORNIA'S ABILITY TO EDUCATE THE PUBLIC TO STOP SMOKING.

Smoking by pregnant women threatens the health and normal development of

children. Smoking during pregnancy accounts for an estimated 20-30 percent of pre-term deliveries and increases the risk of sudden infant death syndrome.

Proposition 10 will more than double the dollars available for California's anti-smoking mass media campaign with a special emphasis on stopping smoking by pregnant women and parents of young children. It will also protect funding for breast cancer research.

PROPOSITION 10 IS FOR LOCAL CONTROL--NOT BIG GOVERNMENT.

80% of the money will go directly to counties. A local commission including experts in health care, education and child care will spend the money on programs that meet the priorities of parents in each community.

20% of the money will go to statewide programs including anti- smoking and parental education programs.

PROPOSITION 10 FUNDS ARE AUDITED ANNUALLY TO ASSURE ACCOUNTABILITY.

Section 130150 of the initiative requires an annual audit by the state and county commissions which must include ". . . the manner in which funds were expended, the progress toward and achievement of program goals and objectives, and the measurement of specific outcomes through appropriate reliable indicators . . ." THESE AUDITS WILL BE MADE PUBLIC.

PROPOSITION 10 IS ENDORSED BY LEADING HEALTH CARE, CHILD CARE, EDUCATION AND COMMUNITY GROUPS INCLUDING:

American Cancer Society, California Division

American Heart Association of California

American Lung Association of California

California Medical Association

California School Boards Association

California Consortium To Prevent Child Abuse

California Child Care Resource and Referral Network

California Association of Catholic Hospitals

National Council of Jewish Women

National Black Child Development Institute

Los Ninos Child Development Center

Asian Family Resource Center

PROPOSITION 10 IS ENDORSED BY LEADERS FROM BOTH POLITICAL PARTIES.

Los Angeles Mayor Richard Riordan, Republican

San Francisco Mayor Willie Brown, Jr., Democrat

Businessman and Former Congressman Mike Huffington, Republican

U.S. Senator Barbara Boxer, Democrat

Proposition 10 is opposed by the tobacco industry, their front groups and the politicians who follow their agenda. A YES VOTE ON PROPOSITION 10 IS A VOTE FOR OUR CHILDREN AND AGAINST THE TOBACCO INDUSTRY.

FOR(au) ROB REINER |t Chairman, I Am Your Child Campaign

FOR(au) ALAN HENDERSON, Dr. PH |t President, American Cancer Society, California Division

FOR(au) JOHN D'AMELIO |t President, California School Boards Association

Rebuttal **Rebuttal to Argument in Favor of Proposition 10**

Proposition 10 is a badly flawed initiative. Its language provides for no specific Early Childhood Development programs. Instead it creates 59 NEW STATE AND COUNTY COMMISSIONS, which in turn are AUTHORIZED TO SPEND HUNDREDS-OF-MILLIONS OF NEW TAX DOLLARS ON UNSPECIFIED NEW SOCIAL PROGRAMS.

Proposition 10 AUTHORIZES THE CREATION OF OVER 500 NEW POLITICAL APPOINTEES AND COULD LEAD TO A STAFF OF 8000 to serve them. Proposition 10 even exempts the staff and employees of these new commissions from California's civil service laws. This initiative is A DREAM COME TRUE FOR AMBITIOUS POLITICIANS AND THEIR POLITICAL OPERATIVES: THOUSANDS OF NEW PATRONAGE JOBS AT TAXPAYERS EXPENSE!

PROPOSITION 10's "SELF-AUDITING" PROVISION ALLOWS THESE POLITICAL APPOINTEES TO AUDIT THEMSELVES; *WITHOUT ANY INDEPENDENT OVERSIGHT.* THEY ARE ACCOUNTABLE TO NO ONE!

PROPOSITION 10 DEPRIVES BREAST CANCER RESEARCH AND TEEN SMOKING PROGRAMS OF MILLIONS OF DOLLARS. The Legislative Analyst's official fiscal analysis estimates Proposition 10 would wipe out millions in funds annually for health care programs such as breast cancer research.

Proposition 10 even goes to the extreme of exempting itself from the constitutional requirements of Proposition 98 that 40% of new tax dollars fund schools. The net effect is THAT PROPOSITION 10 RAISES $700 MILLION IN NEW TAXES, YET

CALIFORNIA'S SCHOOLS DON'T GET THEIR FAIR SHARE!

Proposition 10 amounts to ONE OF THE LARGEST TAX INCREASES ON POOR PEOPLE IN CALIFORNIA'S HISTORY, WITH NO GUARANTEES THAT ANY OF THIS MONEY WILL END UP IN OUR COMMUNITIES. Vote no to more wasteful government.

Rebuttal(au) WILLIAM CAMPBELL |t President Emeritus, California Manufacturers Association

Rebuttal(au) FRANCESCA FELIZZATTO |t School Teacher

Rebuttal(au) RAMON RODRIGUEZ |t Small Business Owner

Against **Argument against Proposition 10**

California education officials, taxpayer advocates and leading government watchdogs have determined that Proposition 10 is not what it claims to be. Proposition 10 is *harmful* to California's schools and *actually takes money away from* existing state programs that benefit children and families. It raises *hundreds of millions in new taxes, creates a massive new state bureaucracy,* but *spends almost all of the new money on programs that have nothing to do with smoking or tobacco related issues.*

PROPOSITION 10 CREATES A NEW STATE COMMISSION, AND 58 SEPARATE COUNTY COMMISSIONS. Thousands of new bureaucrats, controlled by over 500 new political appointees, would spend millions of new tax dollars on new programs that have nothing to do with anti- smoking or breast cancer research programs.

Proposition 10 directs millions of new tax dollars to UNSPECIFIED Child Development programs; GRANTING OPEN-ENDED AUTHORITY TO BUREAUCRATS AND POLITICAL APPOINTEES TO SPEND MILLIONS WITHOUT ANY OUTSIDE CONTROL.

PROPOSITION 10 REDUCES MONEY FOR BREAST CANCER RESEARCH. Proposition 10 would *divert current tobacco tax revenue that funds critical research on breast cancer* at the University of California and *turn it over to new bureaucracies that have nothing to do with tobacco issues.*

PROPOSITION 10 HURTS CURRENT PROGRAMS TO COMBAT TEEN SMOKING. Proposition 10 would actually take money away from Proposition 99 tobacco tax programs that fund anti-tobacco advertising, designed to curb teen smoking. If passed, Proposition 10 would raise millions in new tobacco tax dollars, yet it would actually *decrease* the amount of money spent to stop children from smoking.

PROPOSITION 10 ROBS FUNDING FROM CALIFORNIA'S SCHOOLS. PROPOSITION 10 ACTUALLY *AMENDS THE CONSTITUTION* IN ORDER TO CIRCUMVENT PROPOSITION 98. Proposition 98, approved by voters, ensures California schools receive a fair share of all state revenues in order to meet their basic funding needs. Despite the huge tax increases, Proposition 10 *explicitly exempts any of the new money from going to California schools.* UNDER PROPOSITION 10, CALIFORNIA SCHOOLS GET NOTHING FROM THIS NEW TAX.

PROPOSITION 10 EXEMPTS ITSELF FROM THE CONSTITUTIONAL LIMIT

ON STATE SPENDING. Proposition 10 shields its massive bureaucracies from constitutional limits on all state spending. By amending the constitution, Proposition 10 purposefully avoids the constitutional spending limit previously approved by California voters. Proposition 10 will result in UNCONTROLLED SPENDING, WITH TAXPAYERS LEFT TO PAY THE BILL.

PROPOSITION 10 UNFAIRLY TARGETS POOR TAXPAYERS AND MINORITY TAXPAYERS. Proposition 10 is a *regressive tax that singles out poor and minority Californians* to pay the greatest share of the cost of this new government bureaucracy. Like any tax on business, this tax is passed on to the consumer. *So poor people are going to pay disproportionately more* for the thousands of new bureaucrats and their programs that have nothing to do with stopping smoking or breast cancer research.

Proposition 10 is a sham. It's bad for California's families, bad for California's children, bad for California's taxpayers and bad for California's schools. Taxpayer advocates, educators, and healthcare professionals urge you to VOTE NO ON PROPOSITION 10.

Against(au) JANE ARMSTRONG |t State Chairman, Alliance of California Taxpayers & Involved Voters

Against(au) HELENA RUTKOWSKI |t Member, Westminster School Board

Against(au) Dr. KEN WILLIAMS |t Family Physician

Rebut Against **Rebuttal to Argument against Proposition 10**

THE TOBACCO INDUSTRY IS FUNDING THE CAMPAIGN AGAINST PROPOSITION 10.

Official reports list the opposition as "sponsored by tobacco companies," including Philip Morris, RJ Reynolds, Lorillard Tobacco and Brown & Williamson. Smoking decreased 32% in California after voters approved a 25 cent tobacco tax in 1988. That is why Big Tobacco opposes Proposition 10.

Their arguments are false and misleading. Here are the facts:

PROPOSITION 10 MORE THAN DOUBLES THE FUNDING AVAILABLE FOR ANTI-TOBACCO ADVERTISING AND ALSO HELPS FIGHT TEEN SMOKING. The National Cancer Policy Board says increasing the price of cigarettes is "the single most effective way" to reduce teen smoking. The American Lung Association and The American Heart Association endorse Proposition 10.

PROPOSITION 10 ALLOCATES MONEY SPECIFICALLY FOR BREAST CANCER RESEARCH. The American Cancer Society endorses it.

PROPOSITION 10 DOES NOT TAKE ONE PENNY FROM OUR SCHOOLS. The organization representing every local school board and the California Teacher's Association endorse Proposition 10.

PROPOSITION 10 IS A BIG BENEFIT FOR TAXPAYERS. A Families and Work Institute study showed that every dollar spent on early childhood programs can

save taxpayers up to seven dollars in remedial education, welfare and juvenile crime.

THE TOBACCO COMPANIES DON'T CARE ABOUT MINORITIES, THE POOR OR ANYONE BUT THEMSELVES. They advertise heavily to minority and low income youth. The result--45,000 African-Americans die annually from smoking related diseases and smoking among Latino teens is skyrocketing.

WHO DO YOU BELIEVE? The tobacco industry or anti-smoking, healthcare, child care and education leaders. Please vote YES.

DELAINE EASTIN |t Superintendent of Public Instruction

Rebut Against-au C. EVERETT KOOP, M.D. |t Former Surgeon General of the United States

Rebut Against-au ALAN HENDERSON, Dr PH |t President, American Cancer Society, California Division

Text of Prop. **Proposition 10 - Full Text of the Proposed Law**

This initiative measure is submitted to the people in accordance with the provisions of Article II, Section 8 of the California Constitution.

This initiative measure expressly amends the California Constitution by adding sections thereto, and adds sections to the Health and Safety Code and the Revenue and Taxation Code. New provisions proposed to be added are printed in *italic type* to indicate they are new.

PROPOSED LAW

CALIFORNIA CHILDREN AND FAMILIES FIRST INITIATIVE

SECTION 1. Title. This measure shall be known and may be cited as the "California Children and Families First Act of 1998."

SEC. 2. Findings and Declarations. The people find and declare as follows:

(a) There is a compelling need in California to create and implement a comprehensive, collaborative, and integrated system of information and services to promote, support, and optimize early childhood development from the prenatal stage to five years of age.

(b) There is a further compelling need in California to ensure that early childhood development programs and services are universally and continuously available for children until the beginning of kindergarten. Proper parenting, nurturing, and health care during these early years will provide the means for California's children to enter school in good health, ready and able to learn, and emotionally well developed.

(c) It has been determined that a child's first three years are the most critical in brain development, yet these crucial years have inadvertently been neglected. Experiences that fill the child's first three years have a direct and substantial impact not

only on brain development but on subsequent intellectual, social, emotional, and physical growth.

(d) The seminal Starting Points report by the Carnegie Corporation of New York concludes that "how children function from the preschool years all the way through adolescence, and even adulthood, hinges in large part on their experiences before the age of three."

(e) New research from many sources, including the Carnegie Corporation, the Baylor College of Medicine, and the White House Conference on Early Childhood Development, demonstrates that the capacity of a child's brain grows more during the first three years than at any other time.

(f) The Education Commission of the States' report on the results of neuroscience research associated with early childhood development states: "Too many infants are born with problems that hinder their start in life. Damage that occurs to the embryo during critical growth times may lead to irreversible disabilities."

(g) California taxpayers spend billions of dollars on public education each year, yet there are few programs designed specifically to help prepare children to enter school in good health, ready and able to learn, and emotionally well developed. Children who succeed in school are far more likely to engage in meaningful social, economic, and civic participation as adults and to avoid the use of tobacco and other addictive substances.

(h) Dollars spent now on well-coordinated programs that enable children to begin school healthy, ready and able to learn, and emotionally well developed will save billions of dollars in remedial programs, treatment services, social services, and our criminal justice system.

(i) The well-being of California's infants and children is endangered. Each year, tens of thousands of children are born exposed to tobacco, drugs, and alcohol. Cigarette smoking and other tobacco use by pregnant women and new parents represent a significant threat to the healthy development of infants and young children. Smoking is the leading preventable cause of death and disease in California.

(j) Studies published by the American Lung Association state: "Smoking during pregnancy accounts for an estimated 20 to 30 percent of low birth weight babies, up to 14 percent of preterm deliveries, and some 10 percent of all infant deaths. Maternal smoking has been linked to asthma among infants and young children."

(k) Research and studies demonstrate that low birth weight infants are particularly at risk for severe physical and developmental complications.

(*l*) Studies by the federal Environmental Protection Agency demonstrate an increased risk of sudden infant death syndrome (SIDS) in infants of mothers who smoke. The federal Environmental Protection Agency also estimates that secondhand smoke is responsible for between 150,000 and 300,000 lower respiratory tract infections in infants and children under 18 months of age annually, resulting in between 7,500 and 15,000 hospitalizations each year.

(m) The California Children and Families First Act of 1998 addresses these issues by facilitating the creation of a seamless system of integrated and comprehensive programs and services, and a funding base for the system with program and financial accountability, that will:

(1) Establish community-based programs to provide parental education and family support services relevant to effective childhood development. These services shall include education and skills training in nurturing and in avoidance of tobacco, drugs, and alcohol during pregnancy. Emphasis will be on services not provided by existing programs and on the consolidation of existing programs and new services provided pursuant to this act into an integrated system from the consumer's perspective.

(2) Educate the public, using mass media, on the importance and the benefits of nurturing, health care, family support, and child care; and inform involved professionals and the general public about programs that focus on early childhood development.

(3) Educate the public, using mass media, on the dangers caused by smoking and other tobacco use by pregnant women to themselves and to infants and young children, and the dangers of secondhand smoke to all children.

(4) Encourage pregnant women and parents of young children to quit smoking. (n) A 50-cent-per-pack increase in the state surtax on cigarettes and an equivalent increase in the state surtax on tobacco products to fund anti-smoking and early childhood development programs is necessary, appropriate, and in the public interest.

SEC. 3. Section 7 is added to Article XIII A of the Constitution, to read:

SEC. 7. Section 3 of this article does not apply to the California Children and Families First Act of 1998.

SEC. 4. Section 13 is added to Article XIII B of the Constitution, to read:

SEC. 13. "Appropriations subject to limitation" of each entity of government shall not include appropriations of revenue from the California Children and Families First Trust Fund created by the California Children and Families First Act of 1998. No adjustment in the appropriations limit of any entity of government shall be required pursuant to Section 3 as a result of revenue being deposited in or appropriated from the California Children and Families First Trust Fund. The surtax created by the California Children and Families First Act of 1998 shall not be considered General Fund revenues for the purposes of Section 8 of Article XVI.

SEC. 5. Division 108 (commencing with Section 130100) is added to the Health and Safety Code, to read:

DIVISION 108. CALIFORNIA CHILDREN AND FAMILIES FIRST PROGRAM

130100. There is hereby created a program in the state for the purposes of promoting, supporting, and improving the early development of children from the prenatal stage to five years of age. These purposes shall be accomplished through the establishment, institution, and coordination of appropriate standards, resources, and

integrated and comprehensive programs emphasizing community awareness, education, nurturing, child care, social services, health care, and research.

(a) It is the intent of this act to facilitate the creation and implementation of an integrated, comprehensive, and collaborative system of information and services to enhance optimal early childhood development. This system should function as a network that promotes accessibility to all information and services from any entry point into the system. It is further the intent of this act to emphasize local decisionmaking, to provide for greater local flexibility in designing delivery systems, and to eliminate duplicate administrative systems.

(b) The programs authorized by this act shall be administered by the California Children and Families First Commission and by county children and families first commissions. In administering this act, the state and county commissions shall use outcome-based accountability to determine future expenditures.

(c) This division shall be known and may be cited as the "California Children and Families First Act of 1998."

130105. The California Children and Families First Trust Fund is hereby created in the State Treasury.

(a) The California Children and Families First Trust Fund shall consist of moneys collected pursuant to the taxes imposed by Section 30131.2 of the Revenue and Taxation Code.

(b) All costs to implement this act shall be paid from moneys deposited in the California Children and Families First Trust Fund.

(c) The State Board of Equalization shall determine within one year of the passage of this act the effect that additional taxes imposed on cigarettes and tobacco products by this act has on the consumption of cigarettes and tobacco products in this state. To the extent that a decrease in consumption is determined by the State Board of Equalization to be the direct result of additional taxes imposed by this act, the State Board of Equalization shall determine the fiscal effect the decrease in consumption has on the funding of any Proposition 99 (the Tobacco Tax and Health Protection Act of 1988) state health- related education or research programs in effect as of November 1, 1998, and the Breast Cancer Fund programs that are funded by excise taxes on cigarettes and tobacco products. Funds shall be transferred from the California Children and Families First Trust Fund to those affected programs as necessary to offset the revenue decrease directly resulting from the imposition of additional taxes by this act. Such reimbursements shall occur, and at such times, as determined necessary to further the intent of this subdivision.

(d) Moneys shall be allocated and appropriated from the California Children and Families First Trust Fund as follows:

(1) Twenty percent shall be allocated and appropriated to separate accounts of the state commission for expenditure according to the following formula:

(A) Six percent shall be deposited in a Mass Media Communications Account for expenditures for communications to the general public utilizing television, radio, newspapers, and other mass media on subjects relating to and furthering the goals and purposes of this act, including, but not limited to, methods of nurturing and parenting that encourage proper childhood development, the informed selection of child care, information regarding health and social services, the prevention of tobacco, alcohol, and drug use by pregnant women, and the detrimental effects of secondhand smoke on early childhood development.

(B) Five percent shall be deposited in an Education Account for expenditures for programs relating to education, including, but not limited to, the development of educational materials, professional and parental education and training, and technical support for county commissions in the areas described in subparagraph (A) of paragraph (1) of subdivision (b) of Section 130125.

(C) Three percent shall be deposited in a Child Care Account for expenditures for programs relating to child care, including, but not limited to, the education and training of child care providers, the development of educational materials and guidelines for child care workers, and other areas described in subparagraph (B) of paragraph (1) of subdivision (b) of Section 130125.

(D) Three percent shall be deposited in a Research and Development Account for expenditures for the research and development of best practices and standards for all programs and services relating to early childhood development established pursuant to this act, and for the assessment and quality evaluation of such programs and services.

(E) One percent shall be deposited in an Administration Account for expenditures for the administrative functions of the state commission.

(F) Two percent shall be deposited in an Unallocated Account for expenditure by the state commission for any of the purposes of this act described in Section 130100 provided that none of these moneys shall be expended for the administrative functions of the state commission.

(G) In the event that, for whatever reason, the expenditure of any moneys allocated and appropriated for the purposes specified in subparagraphs (A) to (F), inclusive, is enjoined by a final judgment of a court of competent jurisdiction, then those moneys shall be available for expenditure by the state commission for mass media communication emphasizing the need to eliminate smoking and other tobacco use by pregnant women, the need to eliminate smoking and other tobacco use by persons under 18 years of age, and the need to eliminate exposure to secondhand smoke.

(H) Any moneys allocated and appropriated to any of the accounts described in subparagraphs (A) to (F), inclusive, that are not encumbered or expended within any applicable period prescribed by law shall (together with the accrued interest on the amount) revert to and remain in the same account for the next fiscal period.

(2) Eighty percent shall be allocated and appropriated to county commissions in accordance with Section 130140.

(A) The moneys allocated and appropriated to county commissions shall be deposited in each local Children and Families First Trust Fund administered by each county commission, and shall be expended only for the purposes authorized by this act and in accordance with the county strategic plan approved by each county commission.

(B) Any moneys allocated and appropriated to any of the county commissions that are not encumbered or expended within any applicable period prescribed by law shall (together with the accrued interest on the amount) revert to and remain in the same local Children and Families First Trust Fund for the next fiscal period under the same conditions as set forth in subparagraph (A).

(e) All grants, gifts, or bequests of money made to or for the benefit of the state commission from public or private sources to be used for early childhood development programs shall be deposited in the California Children and Families First Trust Fund and expended for the specific purpose for which the grant, gift, or bequest was made. The amount of any such grant, gift, or bequest shall not be considered in computing the amount allocated and appropriated to the state commission pursuant to paragraph (1) of subdivision (d).

(f) All grants, gifts, or bequests of money made to or for the benefit of any county commission from public or private sources to be used for early childhood development programs shall be deposited in the local Children and Families First Trust Fund and expended for the specific purpose for which the grant, gift, or bequest was made. The amount of any such grant, gift, or bequest shall not be considered in computing the amount allocated and appropriated to the county commissions pursuant to paragraph (2) of subdivision (d).

130110. There is hereby established a California Children and Families First Commission composed of seven voting members and two ex officio members.

(a) The voting members shall be selected, pursuant to Section 130115, from persons with knowledge, experience, and expertise in early child development, child care, education, social services, public health, the prevention and treatment of tobacco and other substance abuse, behavioral health, and medicine (including, but not limited to, representatives of statewide medical and pediatric associations or societies), upon consultation with public and private sector associations, organizations, and conferences composed of professionals in these fields.

(b) The Secretary of Health and Welfare and the Secretary of Child Development and Education, or their designees, shall serve as ex officio nonvoting members of the state commission.

130115. The Governor shall appoint three members of the state commission, one of whom shall be designated as chairperson. One of the Governor's appointees shall be either a county health officer or a county health executive. The Speaker of the Assembly and the Senate Rules Committee shall each appoint two members of the state commission. Of the members first appointed by the Governor, one shall serve for a term of four years, and two for a term of two years. Of the members appointed by the Speaker of the Assembly and the Senate Rules Committee, one appointed by the Speaker of the Assembly and the Senate Rules Committee shall serve for a period of

four years with the other appointees to serve for a period of three years. Thereafter, all appointments shall be for four-year terms. No appointee shall serve as a member of the state commission for more than two four-year terms.

130120. The state commission shall, within three months after a majority of its voting members have been appointed, hire an executive director. The state commission shall thereafter hire such other staff as necessary or appropriate. The executive director and staff shall be compensated as determined by the state commission, consistent with moneys available for appropriation in the Administration Account. All professional staff employees of the state commission shall be exempt from civil service. The executive director shall act under the authority of, and in accordance with the direction of, the state commission.

130125. The powers and duties of the state commission shall include, but are not limited to, the following:

(a) Providing for statewide dissemination of public information and educational materials to members of the general public and to professionals for the purpose of developing appropriate awareness and knowledge regarding the promotion, support, and improvement of early childhood development.

(b) Adopting guidelines for an integrated and comprehensive statewide program of promoting, supporting, and improving early childhood development that enhances the intellectual, social, emotional, and physical development of children in California.

(1) The state commission's guidelines shall, at a minimum, address the following matters:

(A) Parental education and support services in all areas required for, and relevant to, informed and healthy parenting. Examples of parental education shall include, but are not limited to, prenatal and postnatal infant and maternal nutrition, education and training in newborn and infant care and nurturing for optimal early childhood development, parenting and other necessary skills, child abuse prevention, and avoidance of tobacco, drugs, and alcohol during pregnancy. Examples of parental support services shall include, but are not limited to, family support centers offering an integrated system of services required for the development and maintenance of self-sufficiency, domestic violence prevention and treatment, tobacco and other substance abuse control and treatment, voluntary intervention for families at risk, and such other prevention and family services and counseling critical to successful early childhood development.

(B) The availability and provision of high quality, accessible, and affordable child care, both in-home and at child care facilities, that emphasizes education, training and qualifications of care providers, increased availability and access to child care facilities, resource and referral services, technical assistance for caregivers, and financial and other assistance to ensure appropriate child care for all households.

(C) The provision of child health care services that emphasize prevention, diagnostic screenings, and treatment not covered by other programs; and the provision of prenatal and postnatal maternal health care services that emphasize prevention,

immunizations, nutrition, treatment of tobacco and other substance abuse, general health screenings, and treatment services not covered by other programs.

(2) The state commission shall conduct at least one public hearing on its proposed guidelines before they are adopted.

(3) The state commission shall, on at least an annual basis, periodically review its adopted guidelines and revise them as may be necessary or appropriate.

(c) Defining the results to be achieved by the adopted guidelines, and collecting and analyzing data to measure progress toward attaining such results.

(d) Providing for independent research, including the evaluation of any relevant programs, to identify the best standards and practices for optimal early childhood development, and establishing and monitoring demonstration projects.

(e) Soliciting input regarding program policy and direction from individuals and entities with experience in early childhood development, facilitating the exchange of information between such individuals and entities, and assisting in the coordination of the services of public and private agencies to deal more effectively with early childhood development.

(f) Providing technical assistance to county commissions in adopting and implementing county strategic plans for early childhood development.

(g) Reviewing and considering the annual audits and reports transmitted by the county commissions and, following a public hearing, adopting a written report that consolidates, summarizes, analyzes, and comments on those annual audits and reports.

(h) Applying for gifts, grants, donations, or contributions of money, property, facilities, or services from any person, corporation, foundation, or other entity, or from the state or any agency or political subdivision thereof, or from the federal government or any agency or instrumentality thereof, in furtherance of a statewide program of early childhood development.

(i) Entering into such contracts as necessary or appropriate to carry out the provisions and purposes of this act.

(j) Making recommendations to the Governor and the Legislature for changes in state laws, regulations, and services necessary or appropriate to carry out an integrated and comprehensive program of early childhood development in an effective and cost-efficient manner.

130130. Procedures for the conduct of business by the state commission not specified in this act shall be contained in bylaws adopted by the state commission. A majority of the voting members of the state commission shall constitute a quorum. All decisions of the state commission, including the hiring of the executive director, shall be by a majority of four votes.

130135. Voting members of the state commission shall not be compensated for

their services, except that they shall be paid reasonable per diem and reimbursement of reasonable expenses for attending meetings and discharging other official responsibilities as authorized by the state commission.

130140. Any county or counties developing, adopting, promoting, and implementing local early childhood development programs consistent with the goals and objectives of this act shall receive moneys pursuant to paragraph (2) of subdivision (d) of Section 130105 in accordance with the following provisions:

(a) For the period between January 1, 1999 and

June 30, 2000, county commissions shall receive the portion of the total moneys available to all county commissions equal to the percentage of the number of births recorded in the relevant county (for the most recent reporting period) in proportion to the entire number of births recorded in California (for the same period), provided that each of the following requirements has first been satisfied:

(1) The county's board of supervisors has adopted an ordinance containing the following minimum provisions:

(A) The establishment of a county children and families first commission. The county commission shall be appointed by the board of supervisors and shall consist of at least five but not more than nine members.

(i) Two members of the county commission shall be from among the county health officer and persons responsible for management of the following county functions: children's services, public health services, behavioral health services, social services, and tobacco and other substance abuse prevention and treatment services.

(ii) One member of the county commission shall be a member of the board of supervisors.

(iii) The remaining members of the county commission shall be from among the persons described in clause (i) and persons from the following categories: recipients of project services included in the county strategic plan; educators specializing in early childhood development; representatives of a local child care resource or referral agency, or a local child care coordinating group; representatives of a local organization for prevention or early intervention for families at risk; representatives of community-based organizations that have the goal of promoting nurturing and early childhood development; representatives of local school districts; and representatives of local medical, pediatric, or obstetric associations or societies.

(B) The manner of appointment, selection, or removal of members of the county commission, the duration and number of terms county commission members shall serve, and any other matters that the board of supervisors deems necessary or convenient for the conduct of the county commission's activities, provided that members of the county commission shall not becompensated for their services, except they shall be paid reasonable per diem and reimbursement of reasonable expenses for attending meetings and discharging other official responsibilities as authorized by the county commission.

(C) The requirement that the county commission adopt an adequate and complete county strategic plan for the support and improvement of early childhood development within the county.

(i) The county strategic plan shall be consistent with, and in furtherance of the purposes of, this act and any guidelines adopted by the state commission pursuant to subdivision (b) of Section 130125 that are in effect at the time the plan is adopted.

(ii) The county strategic plan shall, at a minimum, include the following: a description of the goals and objectives proposed to be attained; a description of the programs, services, and projects proposed to be provided, sponsored, or facilitated; and a description of how measurable outcomes of such programs, services, and projects will be determined by the county commission using appropriate reliable indicators. No county strategic plan shall be deemed adequate or complete until and unless the plan describes how programs, services, and projects relating to early childhood development within the county will be integrated into a consumer-oriented and easily accessible system.

(iii) The county commission shall, on at least an annual basis, be required to periodically review its county strategic plan and to revise the plan as may be necessary or appropriate.

(D) The requirement that the county commission conduct at least one public hearing on its proposed county strategic plan before the plan is adopted.

(E) The requirement that the county commission conduct at least one public hearing on its periodic review of the county strategic plan before any revisions to the plan are adopted.

(F) The requirement that the county commission submit its adopted county strategic plan, and any subsequent revisions thereto, to the state commission.

(G) The requirement that the county commission prepare and adopt an annual audit and report pursuant to Section 130150. The county commission shall conduct at least one public hearing prior to adopting any annual audit and report.

(H) The requirement that the county commission conduct at least one public hearing on each annual report by the state commission prepared pursuant to subdivision (b) of Section 130150.

(I) Two or more counties may form a joint county commission, adopt a joint county strategic plan, or implement joint programs, services, or projects.

(2) The county's board of supervisors has established a county commission and has appointed a majority of its members.

(3) The county has established a local Children and Families First Trust Fund pursuant to subparagraph (A) of paragraph (2) of subdivision (d) of Section 130105.

(b) Notwithstanding any provision of this act to the contrary, no moneys made

available to county commissions under subdivision (a) shall be expended to provide, sponsor, or facilitate any programs, services, or projects for early childhood development until and unless the county commission has first adopted an adequate and complete county strategic plan that contains the provisions required by clause (ii) of subparagraph (C) of paragraph (1) of subdivision (a).

(c) In the event that any county elects not to participate in the California Children and Families First Program, the moneys remaining in the California Children and Families First Trust Fund shall be reallocated and reappropriated to participating counties in the following fiscal year.

(d) For the fiscal year commencing on July 1, 2000, and for each fiscal year thereafter, county commissions shall receive the portion of the total moneys available to all county commissions equal to the percentage of the number of births recorded in the relevant county (for the most recent reporting period) in proportion to the number of births recorded in all of the counties participating in the California Children and Families First Program (for the same period), provided that each of the following requirements has first been satisfied:

(1) The county commission has, after the required public hearings, adopted an adequate and complete county strategic plan conforming to the requirements of subparagraph (C) of paragraph (1) of subdivision (a), and has submitted the plan to the state commission.

(2) The county commission has conducted the required public hearings, and has prepared and submitted all audits and reports required pursuant to Section 130150.

(3) The county commission has conducted the required public hearings on the state commission annual reports prepared pursuant to subdivision (b) of Section 130150.

(e) In the event that any county elects not to continue participation in the California Children and Families First Program, any unencumbered and unexpended moneys remaining in the local Children and Families First Trust Fund shall be returned to the California Children and Families First Trust Fund for reallocation and reappropriation to participating counties in the following fiscal year.

130145. The state commission and each county commission shall establish one or more advisory committees to provide technical and professional expertise and support for any purposes that will be beneficial in accomplishing the purposes of this act. Each advisory committee shall meet and shall make recommendations and reports as deemed necessary or appropriate.

130150. On or before October 15 of each year, the state commission and each county commission shall conduct an audit of, and issue a written report on the implementation and performance of, their respective functions during the preceding fiscal year, including, at a minimum, the manner in which funds were expended, the progress toward, and the achievement of, program goals and objectives, and the measurement of specific outcomes through appropriate reliable indicators.

(a) The audits and reports of each county commission shall be transmitted to the

state commission.

(b) The state commission shall, on or before January 31 of each year, prepare a written report that consolidates, summarizes, analyzes, and comments on the annual audits and reports submitted by all of the county commissions for the preceding fiscal year. This report by the state commission shall be transmitted to the Governor, the Legislature, and each county commission.

(c) The state commission shall make copies of each of its annual audits and reports available to members of the general public on request and at no cost. The state commission shall furnish each county commission with copies of those documents in a number sufficient for local distribution by the county commission to members of the general public on request and at no cost.

(d) Each county commission shall make copies of its annual audits and reports available to members of the general public on request and at no cost.

130155. The following definitions apply for purposes of this act:

(a) "Act" means the California Children and Families First Act of 1998.

(b) "County commission" means each county children and families first commission established in accordance with Section 130140.

(c) "County strategic plan" means the plan adopted by each county children and families first commission and submitted to the California Children and Families First Commission pursuant to Section 130140.

(d) "State commission" means the California Children and Families First Commission established in accordance with Section 130110.

SEC. 6. Article 3 (commencing with Section 30131) is added to Chapter 2 of Part 13 of Division 2 of the Revenue and Taxation Code, to read:

Article 3. California Children and Families First Trust Fund Account

30131. Notwithstanding Section 30122, the California Children and Families First Trust Fund is hereby created in the State Treasury for the exclusive purpose of funding those provisions of the California Children and Families First Act of 1998 that are set forth in Division 108 (commencing with Section 130100) of the Health and Safety Code.

30131.1. The following definitions apply for purposes of this article:

(a) "Cigarette" has the same meaning as in Section 30003, as it read on January 1, 1997.

(b) "Tobacco products" includes, but is not limited to, all forms of cigars, smoking tobacco, chewing tobacco, snuff, and any other articles or products made of, or containing at least 50 percent, tobacco, but does not include cigarettes.

30131.2. (a) In addition to the taxes imposed upon the distribution of cigarettes by Article 1 (commencing with Section 30101) and Article 2 (commencing with Section 30121) and any other taxes in this chapter, there shall be imposed an additional surtax upon every distributor of cigarettes at the rate of twenty-five mills ($0.025) for each cigarette distributed.

(b) In addition to the taxes imposed upon the distribution of tobacco products by Article 1 (commencing with Section 30101) and Article 2 (commencing with Section 30121), and any other taxes in this chapter, there shall be imposed an additional tax upon every distributor of tobacco products, based on the wholesale cost of these products, at a tax rate, as determined annually by the State Board of Equalization, which is equivalent to the rate of tax imposed on cigarettes by subdivision (a).

30131.3. Except for payments of refunds made pursuant to Article 1 (commencing with Section 30361) of Chapter 6, reimbursement of the State Board of Equalization for expenses incurred in the administration and collection of the taxes imposed by Section 30131.2, and transfers of funds in accordance with subdivision (c) of Section 130105 of the Health and Safety Code, all moneys raised pursuant to the taxes imposed by Section 30131.2 shall be deposited in the California Children and Families First Trust Fund and are continuously appropriated for the exclusive purpose of the California Children and Families First Program established by Division 108 (commencing with Section 130100) of the Health and Safety Code.

30131.4. All moneys raised pursuant to taxes imposed by Section 30131.2 shall be appropriated and expended only for the purposes expressed in the California Children and Families First Act, and shall be used only to supplement existing levels of service and not to fund existing levels of service. No moneys in the California Children and Families First Trust Fund shall be used to supplant state or local General Fund money for any purpose.

30131.5. The annual determination required of the State Board of Equalization pursuant to subdivision (b) of Section 30131.2 shall be made based on the wholesale cost of tobacco products as of March 1, and shall be effective during the state's next fiscal year.

30131.6. The taxes imposed by Section 30131.2 shall be imposed on every cigarette and on tobacco products in the possession or under the control of every dealer and distributor on and after 12:01 a.m. on January 1, 1999, pursuant to rules and regulations promulgated by the State Board of Equalization.

SEC. 7. Effective date. Notwithstanding the imposition of the taxes authorized by Section 30131.2 of the Revenue and Taxation Code as of January 1, 1999, this act shall take effect and become operative on the date that the Secretary of State certifies the results of the election at which this act was approved.

SEC. 8. Amendment. This act may be amended only by a vote of two-thirds of the membership of both houses of the Legislature. All amendments to this act shall be to further the act and must be consistent with its purposes.

SEC. 9. Liberal construction. The provisions of this act shall be liberally construed

to effectuate its purposes of promoting, supporting, and improving early childhood development from the prenatal stage to five years of age.

SEC. 10. No conflict with other laws. The provisions of this act are intended to be in addition to and not in conflict with any other initiative measure that may be adopted by the people at the November 1998 election, and the provisions of this act shall be interpreted and construed so as to avoid conflicts with any such measure whenever possible.

SEC. 11. 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.

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Full Text

Record: 1075

Proposition #	**17**
Title	**Lotteries. Charitable Raffles.**
Year/Election	**2000** primary
Proposition type	Legislative Constitutional Amendment.
Popular vote	Yes: 4,112,490 (58.7%); No: 2,897,099 (41.3%)
Pass/Fail	Pass

Summary

Official Title and Summary Prepared by the Attorney General

LOTTERIES. CHARITABLE RAFFLES. LEGISLATIVE CONSTITUTIONAL AMENDMENT.

. Modifies current constitutional prohibition against private lotteries to permit legislative authorization of raffles conducted by eligible private nonprofit organizations for the purpose of funding beneficial and charitable works.

. Requires at least 90% of a raffle's gross receipts to go directly to beneficial or charitable purposes in California, but permits this percentage to be later amended by statute passed by two-thirds vote of each house without voter approval.

Summary of Legislative Analyst's Estimate of Net State and Local Government Fiscal Impact:

. Probably no significant fiscal impact on state and local governments.

Analysis

Analysis by the Legislative Analyst

Background

A lottery is a game where a person pays for a chance to win a prize. The State Constitution authorizes the California State Lottery, but prohibits any other lottery. (Under federal law, however, Indian tribes can negotiate with the state to operate lotteries on tribal lands.)

Raffles are often held by charitable groups and usually involve the selling of tickets for a chance to win prizes. ("Door prizes" are a common form of raffle.) Raffles that require payment for a chance to win a prize are a form of lottery and, thus, are illegal under state law.

Charitable Gambling in California. Charitable gambling serves as a fund-raiser for nonprofit organizations. In California, bingo is the only legal gambling activity for charity fund-raising. Organizations operating bingo games must do so in keeping with state and local laws. In general, these laws specify when, where, and at what times bingo games can be operated.

Proposal

This proposition amends the State Constitution to allow private nonprofit groups to conduct raffles under certain conditions. To qualify, at least 90 percent of the gross receipts from the raffle must go directly to charitable purposes in California. (This percentage could be changed with a two-thirds vote of the Legislature and approval by the Governor.) Also, the proposition specifies that any person who receives compensation in connection with the operation of a raffle must be an employee of the organization conducting the raffle.

Raffles could not be conducted unless a law is subsequently adopted specifically authorizing these charitable raffles. The law could also (1) define which organizations were eligible to conduct such raffles and (2) provide for "reasonable regulation" of these raffles, including regulatory fees.

Fiscal Effect

This proposition would only have a fiscal impact on the state or local governments if these raffles are subsequently authorized by law. If that occurs, the proposition would have some--mainly indirect--effects on state and local revenues. For instance, if the level of gambling on raffles grew significantly, that might reduce other types of gambling--such as the State Lottery and horse racing. These types of gambling are taxed by the state, so revenues could decline somewhat. At least in the near term, however, we estimate that the proposition would not have a significant state or local impact on governmental revenues.

In addition, the state could require regulation of these raffles. These costs, which would not be significant, could be paid for by regulatory fees.

For

Argument in Favor of Proposition 17

Most Californians are familiar with raffles. Our children sell tickets to raise money for sports leagues, historical societies raffle items to preserve historically significant sites, churches raffle prizes to support their congregations, parent groups hold raffles to support their children's schools. Many of these harmless activities violate the California Penal Code and State Constitution prohibition on raffles. In fact, any person or organization that conducts a traditional raffle commits a misdemeanor crime, punishable by up to six months in jail. Only the State of California raffle, which is better known as the State Lottery, is exempt from the ban.

When local police or prosecutors have knowledge of a charitable raffle, they are placed in the position of either shutting down a legitimate, albeit illegal fundraiser, or "looking the other way" and not enforcing the criminal law. This is an unworkable and unfair situation, which hurts legitimate charities and invites law enforcement to play favorites. Both of these concerns will be corrected by Proposition 17.

If a majority of the voters approve Proposition 17, the ban on raffles by charitable nonprofit organizations will be removed from the State Constitution. Once that happens, the State Legislature will be able to change the Penal Code so that charitable nonprofit organizations will be able to legally conduct a fundraising raffle. The legislation to remove the charitable raffle ban from the Penal Code and regulate their conduct (Senate Bill 639) has been introduced and is being held in the State Legislature pending this vote by the People.

Only charitable non-profits will be able to use raffles as a legal fundraiser if Proposition 17 passes. The types of charities that will benefit from this proposition include those that raise money for scholarships, medicine and health, parks and wildlife preserves, libraries, food banks, religious organizations, and art. No commercial raffling would be allowed.

Major non-profit organizations in California, as well as law enforcement leaders and organizations back Proposition 17. Some of those groups include the California Association of Nonprofits, the California Broadcasters Association, the California District Attorneys Association, California Literacy, the California State Sheriffs Association, the John XXIII AIDS Ministry, and the State Humane Association of California.

The time has come to legalize well-meaning charitable raffles for California non-profit organizations. Vote "yes" on Proposition 17.

FOR(au) BRUCE McPHERSON |t State Senator, 15th District

FOR(au) DEAN D. FLIPPO |t District Attorney, County of Monterey

FOR(au) FLORENCE L. GREEN |t Executive Director, California Association of Nonprofits

Rebuttal **Rebuttal to Argument in Favor of Proposition 17**

We teach our children that there is a RIGHT WAY and a WRONG WAY to do everything. The same is true with ideas for new laws.

Proposition 17 is the WRONG WAY to operate charitable raffles and lotteries. Proposition 17 is a professional gambling operator's dream hiding behind an ill-conceived "law and order" smoke screen.

For more than a decade, special interests have repeatedly attempted to muscle this scheme through the Legislature and onto the ballot. This year the special interests won with the politicians, placing Proposition 17 on the ballot.

DON'T BELIEVE promises of future legislation to regulate raffles. The politicians could have done that a year ago, but DIDN'T. And they WON'T. Protections and controls ARE NOT in Proposition 17.

Proposition 17 allows PHONY charities, scams and swindles to EXPLOIT honest people.

Proposition 17 INVITES crime, corruption and money laundering to our state.

Proposition 17 HURTS legitimate charities and will siphon big money into the pockets of professional gambling operators.

Don't believe claims that charitable raffles are against the law. CALIFORNIA COURTS HAVE RULED EXISTING LEGITIMATE CHARITABLE RAFFLES AND "CASINO NIGHTS" ARE LEGAL.

There is no need to FIX what ISN'T broken. California's laws on raffles and lotteries work as well today as they have for the last 100 years.

DON'T INVITE CRIME TO CALIFORNIA.

DON'T HURT CHARITIES.

VOTE "NO" on Proposition 17. It is a dangerous scheme that will HURT charities.

Rebuttal(au) SENATOR DICK MOUNTJOY

Rebuttal(au) MELANIE MORGAN |t Recovering Compulsive Gambler

Rebuttal(au) ART CRONEY |t Executive Director, Committee on Moral Concerns

Against **Argument Against Proposition 17**

Proposition 17 would allow professional gambling organizations to run private raffles and lotteries.

Don't fall for the line that charitable raffles are presently illegal. Our Constitution and the courts have spelled out how to conduct legal charitable raffles.

Raffles and casino nights have been legally used by legitimate charities for raising funds for decades. The existing law is over 100 years old. No one has been prosecuted for this beneficial, entertaining method of raising funds to help children, hospitals, libraries, or a multitude of other legitimate charities.

Without limits and regulations, Proposition 17 will create the biggest gambling headache Californians have ever seen. What is now a harmless social activity will be taken over by professional gambling operators.

. Proposition 17 DOES NOT regulate buying or selling tickets by minors.

. Proposition 17 DOES NOT require criminal background checks on professional raffle operators.

. Proposition 17 DOES NOT require audits to ensure that funds actually go to charities.

. Proposition 17 DOES NOT prevent phony charities from selling tickets over the Internet.

. Proposition 17 DOES NOT prevent private lotteries from being big enough to compete with the State Lottery, diminishing funds for education.

. Proposition 17 DOES NOT prevent continuous raffles, without a winner for years.

. Proposition 17 DOES NOT regulate devices or pre-programmed computers to select winners.

. Proposition 17 DOES NOT regulate raffle advertising.

. Proposition 17 DOES NOT ensure that the future holds any promise for meaningful regulation.

. Proposition 17 DOES NOT limit the size or frequency of raffles or lotteries.

Under Proposition 17, unscrupulous persons will move in to create PHONY charities, market tickets statewide for their own personal gain, with only a trickle of money ever reaching legitimate charities.

Remember this. There is NO NEED for Proposition 17. Existing raffles are harmless fund-raisers for legitimate charities. They do not cause crime. The purchase of raffle tickets for local charities does not cause gambling addiction.

If Proposition 17 sponsors really cared about legitimate charities, they wouldn't have cleverly written this measure without regulations to prohibit phony charities and scam artists from lining their pockets with donations.

Proposition 17 creates problems and solves none.

Proposition 17 is a bad bet for California.

DON'T BE FOOLED BY PROFESSIONAL GAMBLING OPERATORS. VOTE "NO" ON PROPOSITION 17.

Against(au) Dick Mountjoy |t State Senator

Against(au) Art Croney |t Executive Director, Committee on Moral Concerns

Rebut Against **Rebuttal to Argument Against Proposition 17**

The opposition is making baseless charges to scare voters. These are the facts they do not want you to know: traditional raffles are illegal in California and have been for over 100 years. *There are no exceptions.* No court or prosecuting agency has *ever* claimed traditional raffles are legal for California nonprofit charities.

Proposition 17 has no effect on the State Lottery. It simply legalizes what occurs every day across this state. In fact, Proposition 17 is *supported* by public education leaders.

Proposition 17 prohibits commercial, for profit, raffles. Ninety percent of the funds raised by the raffle must go toward the charity. Any person paid for conducting the charity raffle must be an employee of the nonprofit. Other regulations governing the conduct of charitable raffles are in the companion bill, Senate Bill 639, which is being held in the Legislature pending this vote.

Proposition 17 is *not* being backed by professional gambling interests. It is supported by law enforcement leaders who are tired of having to shut down legitimate, but illegal, charitable raffles. The drive to legalize charitable raffles has received support from countless diverse charitable nonprofit organizations, education leaders, and religious organizations. These nonprofit organizations provide 50 billion dollars in services to this state and employ 750,000 people.

Do not be misled by the "Committee on Moral Concerns." It is time to get rid of this archaic prohibition on charitable raffles. Vote "Yes" on Proposition 17.

Rebut Against-au Jackie Speier |t State Senator, 8th District

Rebut Against-au Curtis J. Hill |t Sheriff, County of San Benito

Text of Prop. **Proposition 17: Text of Proposed Law**

This amendment proposed by Senate Constitutional Amendment 4 of the 1999-2000 Regular Session (Resolution Chapter 123, Statutes of 1999) expressly amends the California Constitution by amending a section thereof; therefore, existing provisions proposed to be deleted are printed in ~~strikeout type~~ and new provisions proposed to be added are printed in *italic type* to indicate that they are new.

PROPOSED AMENDMENT TO SECTION 19 OF ARTICLE IV

SEC. 19. (a) The Legislature has no power to authorize lotteries and shall prohibit the sale of lottery tickets in the State.

(b) The Legislature may provide for the regulation of horse races and horse race meetings and wagering on the results.

(c) Notwithstanding subdivision (a) , the Legislature by statute may authorize cities and counties to provide for bingo games, but only for charitable purposes.

(d) Notwithstanding subdivision (a), there is authorized the establishment of a California State Lottery.

(e) The Legislature has no power to authorize, and shall prohibit , casinos of the type currently operating in Nevada and New Jersey.

(f) Notwithstanding subdivision (a), the Legislature may authorize private, nonprofit, eligible organizations, as defined by the Legislature, to conduct raffles as a funding mechanism to provide support for their own or another private, nonprofit, eligible organization's beneficial and charitable works, provided that (1) at least 90 percent of the gross receipts from the raffle go directly to beneficial or charitable purposes in California, and (2) any person who receives compensation in connection with the operation of a raffle is an employee of the private nonprofit organization that is conducting the raffle. The Legislature, two-thirds of the membership of each house concurring, may amend the percentage of gross receipts required by this subdivision to be dedicated to beneficial or charitable purposes by means of a statute that is signed by the Governor.

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Record: 1089

Proposition #	39
Title	**School Facilities.**
Year/Election	**2000** general
Proposition type	Initiative Constitutional Amendment and Statute<>
Popular vote	Yes: 5,431,152 (53.4%); No: 4,756,311 (46.6%)
Pass/Fail	Pass
Summary	**Official Title and Summary Prepared by the Attorney General**

SCHOOL FACILITIES. 55% LOCAL VOTE. BONDS, TAXES.

ACCOUNTABILITY REQUIREMENTS.

Initiative Constitutional Amendment and Statute.

. Authorizes bonds for repair, construction or replacement of school facilities, classrooms, if approved by 55% local vote for projects evaluated by schools, community college districts, county education offices for safety, class size, and information technology needs.

. Accountability requirements include annual performance and financial audits on use of bond proceeds.

. Prohibits use of bond proceeds for salaries or operating expenses.

. Requires facilities for public charter schools.

. Authorizes property taxes in excess of 1% limit by 55% vote, rather than current two-thirds, as necessary to pay school bonds.

Summary of Legislative Analyst's Estimate of Net State and Local Government Fiscal Impact:

. Increased debt costs for many school districts, depending on local voter approval of future school bond issues (these costs would vary by individual district). District costs throughout the state could total in the hundreds of millions of dollars each year within a decade.

. Potential longer-term state savings to the extent local school districts assume greater responsibility for funding school facilities.

Analysis **Analysis by the Legislative Analyst**

BACKGROUND

Property Taxes

The California Constitution limits property taxes to 1 percent of the value of property. Property taxes may only exceed this limit to pay for (1) any local government debts approved by the voters prior to July 1, 1978 or (2) bonds to buy or improve real property that receive two-thirds voter approval after July 1, 1978.

School Facilities

Kindergarten Through Twelfth Grade (K-12). California public school facilities are the responsibility of over 1,000 school districts and county offices of education. Over the years, the state has provided a significant portion of the funding for these facilities through the state schools facilities program. Most recently, this program was funded with $6.7 billion in state general obligation bonds approved by the voters in November 1998.

Under this program, the state generally pays:

. 50 percent of the cost of new school facilities.

. 80 percent of the cost of modernizing existing facilities.

. 100 percent of the cost of either new facilities or modernization in "hardship cases."

In addition to state bonds, funding for school facilities has been provided from a variety of other sources, including:

. School district general obligation bonds.

. Special local bonds (known as "Mello-Roos" bonds).

. Fees that school districts charge builders on new residential, commercial, and industrial construction.

Community Colleges. Community colleges are part of the state's higher education system and include 107 campuses operated by 72 local districts. Their facilities are funded differently than K-12 schools. In recent years, most facilities for community colleges have been funded 100 percent by the state, generally using state bonds. The state funds are available only if appropriated by the Legislature for the specific facility. There is no requirement that local community college districts provide a portion of the funding in order to obtain state funds. However, community college districts may fund construction of facilities with local general obligation bonds or other nonstate funds if

they so choose.

Charter Schools

Charter schools are independent public schools formed by teachers, parents, and other individuals and/or groups. The schools function under contracts or "charters" with local school districts, county boards of education, or the State Board of Education. They are exempt from most state laws and regulations affecting public schools.

As of June 2000, there were 309 charter schools in California, serving about 105,000 students (less than 2 percent of all K-12 students). The law permits an additional 100 charter schools each year until 2003, at which time the charter school program will be reviewed by the Legislature. Under current law, school districts must allow charter schools to use, at no charge, facilities not currently used by the district for instructional or administrative purposes.

PROPOSAL

Provisions of the Proposition

This proposition (1) changes the State Constitution to lower the voting requirement for passage of local school bonds and (2) changes existing statutory law regarding charter school facilities. The constitutional amendments could be changed only with another statewide vote of the people. The statutory provisions could be changed by a majority vote of both houses of the Legislature and approval by the Governor, but only to further the purposes of the proposition. The local school jurisdictions affected by this proposition are K-12 school districts, community college districts, and county offices of education.

Change in the Voting Requirement. This proposition allows (1) school facilities bond measures to be approved by 55 *percent* (rather than *two-thirds*) of the voters in local elections and (2) property taxes to exceed the current 1 percent limit in order to repay the bonds.

This 55 percent vote requirement would apply only if the local bond measure presented to the voters includes: . A requirement that the bond funds can be used only for construction, rehabilitation, equipping of school facilities, or the acquisition or lease of real property for school facilities.

. A specific list of school projects to be funded and certification that the school board has evaluated safety, class size reduction, and information technology needs in developing the list.

. A requirement that the school board conduct annual, independent financial and performance audits until all bond funds have been spent to ensure that the bond funds have been used only for the projects listed in the measure.

Charter School Facilities. This proposition requires each local K-12 school district to provide charter school facilities sufficient to accommodate the charter school's students. The district, however, would not be required to spend its general

discretionary revenues to provide these facilities for charter schools. Instead, the district could choose to use these or other revenues - including state and local bonds. The proposition also provides that:

. The facilities must be reasonably equivalent to the district schools that these students would otherwise attend.

. The district may charge the charter school for its facilities if district discretionary revenues are used to fund the facilities.

. A district may decline to provide facilities for a charter school with a current or projected enrollment of fewer than 80 students.

Provisions of Related Legislation

Legislation approved in June 2000 would place certain limitations on local school bonds to be approved by 55 percent of the voters. The provisions of the law, however, would take effect only if this proposition is approved by the voters. These provisions require that:

. Two-thirds of the governing board of a school district or community college district approve placing a bond issue on the ballot. (Current law requires a majority vote.)

. The bond proposal be included on the ballot of a statewide primary or general election, a regularly scheduled local election, or a statewide special election. (Currently, school boards can hold bond elections throughout the year.)

. The tax rate levied as the result of any single election be no more than $60 (for a unified school district), $30 (for a school district), or $25 (for a community college district), per $100,000 of taxable property value. (Current law does not have this type of restriction.)

. The governing board of a school district or community college district appoint a citizens' oversight committee to inform the public concerning the spending of the bond revenues. (Existing law does not require appointment of an oversight committee.)

These requirements are not part of this proposition and can be changed with a majority vote of both houses of the Legislature and approval by the Governor.

FISCAL EFFECT

Local School Impact

This proposition would make it easier for school bonds to be approved by local voters. For example, between 1986 and June 2000:

. ***K-12 Schools.*** K-12 bond measures totaling over $18 billion received the necessary two-thirds voter approval. During the same period, however, over $13 billion of bonds received over 55 percent but less than two-thirds voter approval and therefore

were defeated.

. ***Community Colleges.*** Local community college bond measures totaling almost $235 million received the necessary two-thirds voter approval. During the same period, though, $579 million of bonds received over 55 percent but less than two-thirds voter approval and therefore were defeated.

Districts approving bond measures that otherwise would not have been approved would have increased debt costs to pay off the bonds. The cost to any particular district would depend primarily on the size of the bond issue. (See box for the impact on a typical property owner.) The total cost for all districts throughout the state, however, could be in the hundreds of millions of dollars annually within a decade.

How Would the Proposition Affect the Average Homeowner?

As noted in the text, this proposition would only have an impact on property owners in cases where a school district bond issue is approved by less than two-thirds but at least 55 percent of the voters. In these instances, the impact on a property owner (business or homeowner) would depend on two factors: (1) the tax rate "add-on" needed to pay the debt on the bonds and (2) the assessed value of a particular property.

The following illustrates the possible impact of the proposition. A homeowner lives in a unified school district that places a bond before the voters. The bond is approved with a 58 percent vote and the size of the bond requires a tax rate levy of $60 per each $100,000 of assessed value. If the assessed value of the owner's home is the statewide average (about $170,000), the owner would pay about $100 in additional property taxes each year for the life of the bond (typically between 20 and 30 years).

State Impact

The proposition's impact on state costs is less certain. In the near term, it could have varied effects on demand for state bond funds. For instance, if more local bonds are approved, fewer local jurisdictions would qualify for hardship funding by the state. In this case, state funding would be reduced from 100 percent to 50 percent of the cost for a new local school. On the other hand, there are over 500 school jurisdictions that do not currently participate in the state school facilities program. To the extent the reduced voter-approval requirement encourages some of these districts to participate in the state program, demand for state bond funds would increase.

In the longer run, the proposition could have a more significant fiscal impact on the state. For instance, if local districts assume greater funding responsibility for school facilities, the state's debt service costs would decline over time.

The actual impact on state costs ultimately would depend on the level of state bonds placed on the ballot in future years by the Legislature and the Governor, and voters' decisions on those bond measures.

Charter Schools

The requirement that K-12 school districts provide charter schools with

comparable facilities could increase state and local costs. As discussed above, districts are currently required to provide facilities for charter schools only if unused district facilities are available. The proposition might lead many districts to increase the size of their bond issues somewhat to cover the cost of facilities for charter schools. This could also increase state costs to the extent districts apply for and receive state matching funds. The amount of this increase is unknown, as it would depend on the availability of existing facilities and the number and types of charter schools.

For **Argument in Favor of Proposition 39**

FIX CLASSROOMS.

FIX THE WAY SCHOOLS SPEND MONEY.

Taxpayers, seniors, teachers, businesses, and parents agree: If we vote "YES" on Proposition 39, we can fix the way our schools spend money AND fix our schools!

We're all aware of financial abuses in some of our schools - the waste, bureaucracy and mismanagement. If we're going to make California's schools among the best in the nation, we must make our schools accountable for the way they spend our tax dollars.

PASSING PROP. 39 WILL:

HOLD ADMINISTRATORS ACCOUNTABLE FOR SPENDING SCHOOL BOND CONSTRUCTION MONEY:

. Prohibit using funds for administration or bureaucracy.

. Require school administrators to produce a detailed list of specific school construction and repair projects to be funded.

. Require schools to undergo two rigid, independent financial and performance audits every year.

. Require bonds to be passed by a tough 55% super-majority vote.

ADD MORE PROTECTION FOR TAXPAYERS AND HOMEOWNERS:

When Prop. 39 passes, legislation automatically goes into effect that:

. Mandates citizen watchdog committees of local taxpayers, homeowners, parents and business leaders to make sure the money is not wasted.

. Empowers watchdog committees to stop any project if audits show wasteful or unauthorized spending, inform the public of abuse or waste and vigorously investigate and prosecute violations.

. Prohibits these bond votes except at regularly scheduled elections.

. Caps and limits how much property taxes can be raised by a local school bond.

"Proposition 39 and supporting legislation impose a strict cap on property tax increases which may result from an election held under the provisions of this initiative. For an average California home, the cost would be less than $100 per year. Based on my thorough analysis, the claim of a 'doubling of property tax' is significantly overstated and historically inaccurate."

Thomas W. Hayes, Former State Treasurer and Auditor General

HELP FIX OUR SCHOOLS.

. Our classrooms are overcrowded - California has more students per classroom than any other state except one.

. If we're going to reduce class size, we've got to build more classrooms. Just to keep up with the school population growth expected over the next ten years, experts say we'll need 20,000 new classrooms.

. Students in some districts go to class in trailers or in cafeterias, libraries and gyms that have been converted to classrooms.

. Many schools need repairs and updating so children can use computers and get connected to the Internet where they can learn to use the tools they will need to succeed in the future.

"This initiative helps fix classroom overcrowding and provides much needed repairs of unsafe and outdated schools. It mandates the strictest accountability requirements to ensure that bond funds are spent only on schools and classrooms, protecting taxpayers."

FOR(au) Gail D. Dryden, |t President, League of Women Voters of California

For2 *JOIN GOVERNOR GRAY DAVIS AND FORMER GOVERNOR PETE WILSON, SENIORS, TEACHERS, PARENTS, BUSINESS AND COMMUNITY LEADERS, TAXPAYERS, LABOR, ETHNIC AND PUBLIC SAFETY ORGANIZATIONS:*

VOTE YES ON PROPOSITION 39.

FOR2(au) LAVONNE MCBROOM, |t *President California State PTA<>*

FOR2(au) JACQUELINE N. ANTEE, |t *AARP State President<>*

FOR2(au) ALLAN ZAREMBERG, |t *President California Chamber of Commerce<>*

Rebuttal **Rebuttal to Argument in Favor of Proposition 39**

Incredible! The very heart of the Arguments FOR Proposition 39 are about provisions NOT IN PROPOSITION 39!

Provisions NOT IN 39:

. NO watchdog committees.

. NO election rules.

. NO limits on property tax increases.

The ENTIRE SECTION titled "More Protections for Taxpayers and Homeowners" is NOT IN 39! These provisions were added by 39's promoters in the Legislature AFTER 39 was filed. They can be removed or changed anytime WITHOUT VOTER APPROVAL.

United States Justice Foundation Executive Director Gary Kreep certifies:

"The Watchdog Committees, Election Rules and Tax Limitations referenced in the promoters' Arguments are not in 39. Therefore, these provisions may be waived anytime without voter approval."

These "Special Provisions" risks are unnecessary! GOOD BONDS PASS NOW. Since 1996, 62% passed, with two-thirds voter approval. $13 Billion worth! Do you *really* want every bond, good bad, approved? Each bond creates a new lien on your home, usually for 30 years.

Remember, PROPOSITION 39 has NO PROPERTY TAX LIMITS. Meaning:

"Proposition 39 could realistically lead to actions more than doubling current property taxes, putting them back to pre-1978 levels."

Rebuttal(au) Joseph Skeehan, |t Certified Public Accountant

Rebuttal2 Join seniors, educators, parents, small businesses, newspapers, Democrats, Republicans, Independents, homeowners and renters throughout California.

HELP SAVE OUR HOMES.

VOTE NO ON PROPOSITION 39.

Rebuttal2(au) GIL A. PEREZ. |t *Retired School District Administrator*<>

Rebuttal2(au) JOAN C. LONGOBARDO, |t *Governing Board Member Covina-Valley Unified School District*<>

Rebuttal3 Does promoters' Rebuttal, to right, raise questions? Have other questions? Want to help Save Our Homes? Get answers NOW. Visit: SaveOurHomes.com. We, 39's opponents, wrote "NOTICE TO VOTERS", which follows, to help voters understand 39's "Special Provisions" risks.

Against **Argument Against Proposition 39**

NOTICE TO VOTERS: After Proposition 39 was filed, its promoters introduced a special law in the Legislature adding provisions which only take effect if Proposition 39 passes. Therefore, all the changes which will occur if 39 passes are not in Proposition 39 itself. These added provisions DO NOT appear in *Proposition 39: Text of the Proposed Law* in this Voter Information Guide. If Proposition 39 passes, these added "Special Provisions" could be changed or revoked anytime in the future without voter approval.

ARGUMENTS AGAINST PROPOSITION 39:

The "Special Provisions," dealing with critically important tax increase and accountability issues, were either added because of drafting errors, or because the promoters wanted to be free to make changes after the election without voter approval.

In either case, these "Special Provisions" create huge risks. What changes will be made later WITHOUT VOTER APPROVAL?

These "Special Provisions" risks are reason enough to reject Proposition 39.

However, Proposition 39 is also misleading. It says it's about schools. Actually it's about your home and your taxes. What Proposition 39 does:

1. Permits local bond passage with 55% votes instead of the current two-thirds vote requirement. There is NO LIMIT on how much property taxes can eventually increase with passage of 55% bonds.

2. Ends our Constitution's 121 year old provision requiring a two-thirds vote on local bonds. These bonds put liens on your home, usually for 30 years. Tax collectors foreclose if homeowners cannot pay. Prior to voter approved property tax limitations in 1978, excessive taxes often forced home sales.

3. Proposition 39 bonds increase apartment taxes. Landlords may increase rents to pay these taxes.

4. Proposition 39 bonds require taxpayers in the poorest districts to pay tax rates about twenty times higher (and taxpayers typical districts to pay about five times higher) than taxpayers in the richest districts to raise the same amount per student.

What Proposition 39 DOES NOT do:

1. DOES NOT require student performance improvements.

2. DOES NOT require parental or taxpayer oversight.

Campaign:

Proposition 39's wealthy promoters reportedly pledged $30 million. We cannot match their money. But, we outnumber them, so we can win. Pledge your help now. Visit saveourhomes.com or call (toll-free) 1-866-VOTE39NO (1-866-868-3396).

55% risks:

In 1978, property taxes were 2.6 times higher. Could history repeat? Could property taxes return to twice, even three times today's levels? Once started, 55% bonds won't stop here. Every government agency will demand 55%. PROPOSITION 39 PROVIDES NO TAX LIMITS. So, yes, 55% could lead to further actions which eventually double, even triple, property taxes.

Conclusion:

Don't risk the "Special Provisions" without voter control.

Don't risk unlimited property tax increases.

Don't risk starting 55% bonds for all government agencies.

Don't risk new 30 year homeowner liens.

Don't risk higher rents.

Don't encourage putting the highest tax rates on the poorest districts.

And, don't give up our Constitution's two-thirds vote requirement to increase property taxes.

Help Save Our Homes. Please VOTE NO ON PROPOSITION 39.

Against(au) JON COUPAL, |t *Chairman Save Our Homes Committee, Vote No on Proposition 39, a Project of the Howard Jarvis Taxpayers Association*<>

Against(au) DEAN ANDAL, |t *Chairman Board of Equalization, State of California*<>

Against(au) FELICIA ELKINSON, |t *Past President Council of Sacramento Senior Organizations*<>

Rebut Against **Rebuttal to Argument Against Proposition 39**

Strong accountability and taxpayer protections in 39 and the "special provisions" opponents criticize will:

. Limit how much property taxes can be raised by a local school bond.

. Prohibit using funds for administration or bureaucracy.

. Require citizen watchdog committees.

. Prohibit special elections for enacting these bonds.

NONE OF THESE REFORMS WILL BECOME LAW UNLESS WE PASS PROPOSITION 39!

That's why the California Chamber of Commerce, California Organization of Police and Sheriffs, League of Women Voters of California, California Hispanic Chamber of Commerce, California Professional Firefighters, Consumer Federation of California and 200 other community organizations and leaders support 39.

OPPONENTS OF 39 WANT YOU TO BELIEVE ALL THESE RESPECTED GROUPS ARE LYING. BUT WHO'S REALLY LYING?

"Shame on the Jarvis political committee. They can't make their case with facts so they resort to scare tactics, fear-mongering and misleading statements."

AARP California State President Jacqueline N. Antee

"Contrary to the Jarvis group, passage of Proposition 39 *doesn't* raise property taxes, *doesn't* put a lien on your home and *doesn't* increase rents. Local voters have the final say in passing school bonds through a tough 55% super-majority vote."

California State PTA President Lavonné McBroom

By voting YES on 39, we can:

. Build new classrooms, repair older ones and reduce class size.

. Cut waste and abuses that have taken place in some districts.

. Assure that our children and grandchildren have safe schools in which to learn and prepare for the future.

YES on Proposition 39: fix the way schools spend money AND fix our schools.

Rebut Against-au ANDREW YSIANO, |t *Immediate Past President California Hispanic Chamber of Commerce<>*

Rebut Against-au WILLIAM HAUCK, |t *Chairman California Business for Education Excellence<>*

Rebut Against-au DAN TERRY, |t *President California Professional Firefighters<>*

Text of Prop. **Text of Proposed Law**

This initiative measure is submitted to the people of California in accordance with the provisions of Section 8 of Article II of the California Constitution. This initiative measure amends provisions of the California Constitution and the Education Code; therefore, existing provisions proposed to be deleted are printed in ~~strikeout type~~ and new provisions proposed to be added are printed in *italic type* to indicate that they are new.

PROPOSED LAW

SMALLER CLASSES, SAFER SCHOOLS AND FINANCIAL ACCOUNTABILITY ACT

SECTION ONE. TITLE

This act shall be known as the Smaller Classes, Safer Schools and Financial Accountability Act.

SECTION TWO. FINDINGS AND DECLARATIONS

The people of the State of California find and declare as follows:

(a) Investing in education is crucial if we are to prepare our children for the 21st Century.

(b) We need to make sure our children have access to the learning tools of the 21st Century like computers and the Internet, but most California classrooms do not have access to these technologies.

(c) We need to build new classrooms to facilitate class size reduction, so our children can learn basic skills like reading and mathematics in an environment that ensures that Californiaþs commitment to class size reduction does not become an empty promise.

(d) We need to repair and rebuild our dilapidated schools to ensure that our children learn in a safe and secure environment.

(e) Students in public charter schools should be entitled to reasonable access to a safe and secure learning environment.

(f) We need to give local citizens and local parents the ability to build those classrooms by a 55 percent vote in local elections so each community can decide what is best for its children.

(g) We need to ensure accountability so that funds are spent prudently and only as directed by citizens of the community.

SECTION THREE. PURPOSE AND INTENT

In order to prepare our children for the 21st Century, to implement class size reduction, to ensure that our children learn in a secure and safe environment, and to ensure that school districts are accountable for prudent and responsible spending for school facilities, the people of the State of California do hereby enact the Smaller Classes, Safer Schools and Financial Accountability Act. This measure is intended to accomplish its purposes by amending the California Constitution and the California Education Code:

(a) To provide an exception to the limitation on ad valorem property taxes and the two-thirds vote requirement to allow school districts, community college districts, and county offices of education to equip our schools for the 21st Century, to provide our children with smaller classes, and to ensure our childrenþs safety by repairing, building, furnishing and equipping school facilities;

(b) To require school district boards, community college boards, and county offices of education to evaluate safety, class size reduction, and information technology needs in developing a list of specific projects to present to the voters;

(c) To ensure that before they vote, voters will be given a list of specific projects their bond money will be used for;

(d) To require an annual, independent financial audit of the proceeds from the sale of the school facilities bonds until all of the proceeds have been expended for the specified school facilities projects; and

(e) To ensure that the proceeds from the sale of school facilities bonds are used for

specified school facilities projects only, and not for teacher and administrator salaries and other school operating expenses, by requiring an annual, independent performance audit to ensure that the funds have been expended on specific projects only.

SECTION FOUR

Section 1 of Article XIII A of the California Constitution is amended to read:

SEC. 1. (a) 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. The one percent (1%) tax to be collected by the counties and apportioned according to law to the districts within the counties.

(b) The limitation provided for in subdivision (a) shall not apply to ad valorem taxes or special assessments to pay the interest and redemption charges on ~~(1)~~ any ~~indebtedness~~ *of the following:*

(1) Indebtedness approved by the voters prior to July 1, 1978. ~~, or (2) any bonded~~

(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)(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.

(c) 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).

SECTION FIVE

Section 18 of Article XVI of the California Constitution is amended to read:

SEC. 18. (a) No county, city, town, township, board of education, or school district, shall incur any indebtedness or liability in any manner or for any purpose exceeding in any year the income and revenue provided for such year, without the assent of two-thirds of the ~~qualified electors thereof,~~ *voters of the public entity* voting at an election to be held for that purpose, except that with respect to any such public entity which is authorized to incur indebtedness for public school purposes, any proposition for the incurrence of indebtedness in the form of general obligation bonds for the purpose of repairing, reconstructing or replacing public school buildings determined, in the manner prescribed by law, to be structurally unsafe for school use, shall be adopted upon the approval of a majority of the ~~qualified electors~~ *voters* of the public entity voting on the proposition at such election; nor unless before or at the time of incurring such indebtedness provision shall be made for the collection of an annual tax sufficient to pay the interest on such indebtedness as it falls due, and ~~also provision~~ to ~~constitute~~ *provide for* a sinking fund for the payment of the principal thereof, on or before maturity, which shall not exceed forty years from the time of contracting the ~~same; provided, however, anything to the contrary herein notwithstanding, when~~ *indebtedness.*

(b) Notwithstanding subdivision (a), on or after the effective date of the measure adding this subdivision, in the case of any school district, community college district, or county office of education, any proposition for the incurrence of indebtedness in the form of general obligation bonds 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, shall be adopted upon the approval of 55 percent of the voters of the district or county, as appropriate, voting on the proposition at an election. This subdivision shall apply only to a proposition for the incurrence of indebtedness in the form of general obligation bonds for the purposes specified in this subdivision if the proposition meets all of the accountability requirements of paragraph (3) of subdivision (b) of Section 1 of Article XIII A.

(c) When two or more propositions for incurring any indebtedness or liability are submitted at the same election, the votes cast for and against each proposition shall be counted separately, and when two-thirds or a majority *or 55 percent* of the ~~qualified electors~~ *voters*, as the case may be, voting on any one of ~~such~~ *those* propositions, vote in favor thereof, ~~such~~ *the* proposition shall be deemed adopted.

SECTION SIX

Section 47614 of the Education Code is amended to read: 47614. ~~A school district in which a charter school operates shall permit a charter school to use, at no charge, facilities not currently being used by the school district for instructional or administrative purposes, or that have not been historically used for rental purposes~~

~~provided the charter school shall be responsible for reasonable maintenance of those facilities.~~

(a) The intent of the people in amending Section 47614 is that public school facilities should be shared fairly among all public school pupils, including those in charter schools.

(b) Each school district shall make available, to each charter school operating in the school district, facilities sufficient for the charter school to accommodate all of the charter schoolþs in-district students in conditions reasonably equivalent to those in which the students would be accommodated if they were attending other public schools of the district. Facilities provided shall be contiguous, furnished, and equipped, and shall remain the property of the school district. The school district shall make reasonable efforts to provide the charter school with facilities near to where the charter school wishes to locate, and shall not move the charter school unnecessarily.

(1) The school district may charge the charter school a pro rata share (based on the ratio of space allocated by the school district to the charter school divided by the total space of the district) of those school district facilities costs which the school district pays for with unrestricted general fund revenues. The charter school shall not be otherwise charged for use of the facilities. No school district shall be required to use unrestricted general fund revenues to rent, buy, or lease facilities for charter school students.

(2) Each year each charter school desiring facilities from a school district in which it is operating shall provide the school district with a reasonable projection of the charter schoolþs average daily classroom attendance by in-district students for the following year. The district shall allocate facilities to the charter school for that following year based upon this projection. If the charter school, during that following year, generates less average daily classroom attendance by in-district students than it projected, the charter school shall reimburse the district for the over-allocated space at rates to be set by the State Board of Education.

(3) Each school districtþs responsibilities under this section shall take effect three years from the effective date of the measure which added this subparagraph, or if the school district passes a school bond measure prior to that time on the first day of July next following such passage.

(4) Facilities requests based upon projections of fewer than 80 units of average daily classroom attendance for the year may be denied by the school district.

(5) The term þoperating,þ as used in this section, shall mean either currently providing public education to in-district students, or having identified at least 80 in-district students who are meaningfully interested in enrolling in the charter school for the following year.

(6) The State Department of Education shall propose, and the State Board of Education may adopt, regulations implementing this subdivision, including but not limited to defining the terms þaverage daily classroom attendance,þ þconditions reasonably equivalent,þ þin-district students,þ þfacilities costs,þ as well as defining the

procedures and establishing timelines for the request for, reimbursement for, and provision of, facilities.

SECTION SEVEN. CONFORMITY

The Legislature shall conform all applicable laws to this act. Until the Legislature has done so, any statutes that would be affected by this act shall be deemed to have been conformed with the 55 percent vote requirements of this act.

SECTION EIGHT. SEVERABILITY

If any of the provisions of this measure or the applicability of any provision of this measure to any person or circumstances shall be found to be unconstitutional or otherwise invalid, such finding shall not affect the remaining provisions or applications of this measure to other persons or circumstances, and to that extent the provisions of this measure are deemed to be severable.

SECTION NINE. AMENDMENT

Section 6 of this measure may be amended to further its purpose by a bill passed by a majority of the membership of both houses of the Legislature and signed by the Governor, provided that at least 14 days prior to passage in each house, copies of the bill in final form shall be made available by the clerk of each house to the public and the news media.

SECTION TEN. LIBERAL CONSTRUCTION

The provisions of this act shall be liberally construed to effectuate its purposes.

Proposition 71

This initiative measure is submitted to the people in accordance with the provisions of Section 8 of Article II of the California Constitution.

This initiative measure expressly amends the California Constitution by adding an article thereto; and amends a section of the Government Code, and adds sections to the Health and Safety Code; therefore, new provisions proposed to be added are printed in *italic type* to indicate that they are new.

PROPOSED LAW

CALIFORNIA STEM CELL RESEARCH AND CURES INITIATIVE

SECTION 1. Title

This measure shall be known as the "California Stem Cell Research and Cures Act."

SEC. 2. Findings and Declarations

The people of California find and declare the following:

Millions of children and adults suffer from devastating diseases or injuries that are currently incurable, including cancer, diabetes, heart disease, Alzheimer's, Parkinson's, spinal cord injuries, blindness, Lou Gehrig's disease, HIV/AIDS, mental health disorders, multiple sclerosis, Huntington's disease, and more than 70 other diseases and injuries.

Recently medical science has discovered a new way to attack chronic diseases and injuries. The cure and treatment of these diseases can potentially be accomplished through the use of new regenerative medical therapies including a special type of human cells, called stem cells. These life-saving medical breakthroughs can only happen if adequate funding is made available to advance stem cell research, develop therapies, and conduct clinical trials.

About half of California's families have a child or adult who has suffered or will suffer from a serious, often critical or terminal, medical condition that could potentially be treated or cured with stem cell therapies. In these cases of chronic illness or when patients face a medical crisis, the health care system may simply not be able to meet the needs of patients or control spiraling costs, unless therapy focus switches away from maintenance and toward prevention and cures.

Unfortunately, the federal government is not providing adequate funding necessary for the urgent research and facilities needed to develop stem cell therapies to treat and cure diseases and serious injuries. This critical funding gap currently prevents the rapid advancement of research that could benefit millions of Californians.

The California Stem Cell Research and Cures Act will close this funding gap by establishing an institute which will issue bonds to support stem cell research, emphasizing pluripotent stem cell and progenitor cell research and other vital medical technologies, for the development of life-saving regenerative medical treatments and cures.

SEC. 3. Purpose and Intent

It is the intent of the people of California in enacting this measure to:

Authorize an average of $295 million per year in bonds over a 10-year period to fund stem cell research and dedicated facilities for scientists at California's universities and other advanced medical research facilities throughout the state.

Maximize the use of research funds by giving priority to stem cell research that has the greatest potential for therapies and cures, specifically focused on pluripotent stem cell and progenitor cell research among other vital research opportunities that cannot, or are unlikely to, receive timely or sufficient federal funding, unencumbered by limitations that would impede the research. Research shall be subject to accepted patient disclosure and patient consent standards.

Assure that the research is conducted safely and ethically by including provisions to require compliance with standards based on national models that protect patient safety, patient rights, and patient privacy.

Prohibit the use of bond proceeds of this initiative for funding for human reproductive cloning.

Improve the California health care system and reduce the long-term health care cost burden on California through the development of therapies that treat diseases and injuries with the ultimate goal to cure them.

Require strict fiscal and public accountability through mandatory independent audits, open meetings, public hearings, and annual reports to the public. Create an Independent Citizen's Oversight Committee composed of representatives of the University of California campuses with medical schools; other California universities and California medical research institutions; California disease advocacy groups; and California experts in the development of medical therapies.

Protect and benefit the California budget: by postponing general fund payments on the bonds for the first five years; by funding scientific and medical research that will significantly reduce state health care costs in the future; and by providing an opportunity for the state to benefit from royalties, patents, and licensing fees that result from the research.

Benefit the California economy by creating projects, jobs, and therapies that will generate millions of dollars in new tax revenues in our state.

Advance the biotech industry in California to world leadership, as an economic engine for California's future.

SEC. 4. Article XXXV is added to the California Constitution, to read:

Article XXXV Medical Research

SECTION 1. There is hereby established the California Institute for Regenerative Medicine.

SEC. 2. The institute shall have the following purposes:

(a) To make grants and loans for stem cell research, for research facilities, and for other vital research opportunities to realize therapies, protocols, and/or medical procedures that will result in, as speedily as possible, the cure for, and/or substantial mitigation of, major diseases, injuries, and orphan diseases.

(b) To support all stages of the process of developing cures, from laboratory research through successful clinical trials.

(c) To establish the appropriate regulatory standards and oversight bodies for research and facilities development.

SEC. 3. No funds authorized for, or made available to, the institute shall be used for research involving human reproductive cloning.

SEC. 4. Funds authorized for, or made available to, the institute shall be continuously appropriated without regard to fiscal year, be available and used only for the purposes provided in this article, and shall not be subject to appropriation or transfer by the Legislature or the Governor for any other purpose.

SEC. 5. There is hereby established a right to conduct stem cell research which includes research involving adult stem cells, cord blood stem cells, pluripotent stem cells, and/or progenitor cells. Pluripotent stem cells are cells that are capable of self-renewal, and have broad potential to differentiate into multiple adult cell types. Pluripotent stem cells may be derived from somatic cell nuclear transfer or from surplus products of in vitro fertilization treatments when such products are donated under appropriate informed consent procedures. Progenitor cells are multipotent or precursor cells that are partially differentiated, but retain the ability to divide and give rise to differentiated cells.

SEC. 6. Notwithstanding any other provision of this Constitution or any law, the institute, which is established in state government, may utilize state issued tax-exempt and taxable bonds to fund its operations, medical and scientific research, including therapy development through clinical trials, and facilities.

SEC. 7. Notwithstanding any other provision of this Constitution, including Article VII, or any law, the institute and its employees are exempt from civil service.

SEC. 5. Chapter 3 (commencing with Section 125290.10) is added to Part 5 of Division 106 of the Health and Safety Code, to read:

CHAPTER 3. CALIFORNIA STEM CELL RESEARCH AND CURES BOND ACT

Article 1. California Stem Cell Research and Cures Act

125290.10. General—Independent Citizen's Oversight Committee (ICOC)

This chapter implements Article XXXV of the California Constitution, which established the California Institute for Regenerative Medicine (institute).

125290.15. Creation of the ICOC

There is hereby created the Independent Citizen's Oversight Committee, hereinafter, the ICOC, which shall govern the institute and is hereby vested with full power, authority, and jurisdiction over the institute.

125290.20. ICOC Membership; Appointments; Terms of Office

(a) ICOC Membership

The ICOC shall have 29 members, appointed as follows:

(1) The Chancellors of the University of California at San Francisco, Davis, San Diego, Los Angeles, and Irvine, shall each appoint an executive officer from his or her campus.

(2) The Governor, the Lieutenant Governor, the Treasurer, and the Controller shall each appoint an executive officer from the following three categories:

(A) A California university, excluding the five campuses of the University of California described in paragraph (1), that has demonstrated success and leadership in stem cell research, and that has:

(i) A nationally ranked research hospital and medical school; this criteria will apply to only two of the four appointments.

(ii) A recent proven history of administering scientific and/or medical research grants and contracts in an average annual range exceeding one hundred million dollars ($100,000,000).

(iii) A ranking, within the past five years, in the top 10 United States universities with the highest number of life science patents or that has research or clinical faculty who are members of the National Academy of Sciences.

(B) A California nonprofit academic and research institution that is not a part of the University of California, that has demonstrated success and leadership in stem cell research, and that has:

(i) A nationally ranked research hospital or that has research or clinical faculty who are members of the National Academy of Sciences.

(ii) A proven history in the last five years of managing a research budget in the life sciences exceeding twenty million dollars ($20,000,000).

(C) A California life science commercial entity that is not actively engaged in researching or developing therapies with pluripotent or progenitor stem cells, that has a background in implementing successful experimental medical therapies, and that has not been awarded, or applied for, funding by the institute at the time of appointment. A board member of that entity with a successful history of developing innovative medical therapies may be appointed in lieu of an executive officer.

(D) Only one member shall be appointed from a single university, institution, or entity. The executive officer of a California university, a nonprofit research institution or life science commercial entity who is appointed as a member, may from time to time delegate those duties to an executive officer of the entity or to the dean of the medical school, if applicable.

(3) The Governor, the Lieutenant Governor, the Treasurer, and the Controller shall appoint members from among California representatives of California regional, state, or national disease advocacy groups, as follows:

(A) The Governor shall appoint two members, one from each of the following disease advocacy groups: spinal cord injury and Alzheimer's disease.

(B) The Lieutenant Governor shall appoint two members, one from each of the following disease advocacy groups: type II diabetes and multiple sclerosis or amyotrophic lateral sclerosis.

(C) The Treasurer shall appoint two members, one from each of the following disease groups: type I diabetes and heart disease.

(D) The Controller shall appoint two members, one from each of the following disease groups: cancer and Parkinson's disease.

(4) The Speaker of the Assembly shall appoint a member from among California representatives of a California regional, state, or national mental health disease advocacy group.

(5) The President pro Tempore of the Senate shall appoint a member from among California representatives of a California regional, state, or national HIV/AIDS disease advocacy group.

(6) A chairperson and vice chairperson who shall be elected by the ICOC members. Within 40 days of the effective date of this act, each constitutional officer shall nominate a candidate for chairperson and another candidate for vice chairperson. The chairperson and vice chairperson shall each be elected for a term of six years. The chairperson and vice chairperson of ICOC shall be full or part time employees of the institute and shall meet the following criteria:

(A) Mandatory Chairperson Criteria

(i) Documented history in successful stem cell research advocacy.

(ii) Experience with state and federal legislative processes that must include some experience with medical legislative approvals of standards and/or funding.

(iii) Qualified for appointment pursuant to paragraph (3), (4), or (5) of subdivision (a).

(iv) Cannot be concurrently employed by or on leave from any prospective grant or loan recipient institutions in California.

(B) Additional Criteria for Consideration:

(i) Experience with governmental agencies or institutions (either executive or board position).

(ii) Experience with the process of establishing government standards and procedures.

(iii) Legal experience with the legal review of proper governmental authority for the exercise of government agency or government institutional powers.

(iv) Direct knowledge and experience in bond financing.

The vice chairperson shall satisfy clauses (i), (iii), and (iv) of subparagraph (A). The vice chairperson shall be selected from among individuals who have attributes and experience complementary to those of the chairperson, preferably covering the criteria not represented by the chairperson's credentials and experience.

(b) Appointment of ICOC Members

(1) All appointments shall be made within 40 days of the effective date of this act. In the event that any of the appointments are not completed within the permitted timeframe, the ICOC shall proceed to operate with the appointments that are in place, provided that at least 60 percent of the appointments have been made.

(2) Forty-five days after the effective date of the measure adding this chapter, the State Controller and the Treasurer, or if only one is available within 45 days, the other shall convene a meeting of the appointed members of the ICOC to elect a chairperson and vice chairperson from among the individuals nominated by the constitutional officers pursuant to paragraph (6) of subdivision (a).

(c) ICOC Member Terms of Office

(1) The members appointed pursuant to paragraphs (1), (3), (4), and (5) of subdivision (a) shall serve eight-year terms, and all other members shall serve six-year terms. Members shall serve a maximum of two terms.

(2) If a vacancy occurs within a term, the appointing authority shall appoint a replacement member within 30 days to serve the remainder of the term.

(3) When a term expires, the appointing authority shall appoint a member within 30 days. ICOC members shall continue to serve until their replacements are appointed.

125290.25. Majority Vote of Quorum

Actions of the ICOC may be taken only by a majority vote of a quorum of the ICOC.

125290.30. Public and Financial Accountability Standards

(a) Annual Public Report

The institute shall issue an annual report to the public which sets forth its activities, grants awarded, grants in progress, research accomplishments, and future program directions. Each annual report shall include, but not be limited to, the following: the number and dollar amounts of research and facilities grants; the grantees for the prior year; the institute's administrative expenses; an assessment of the availability of funding for stem cell research from sources other than the institute; a summary of research findings, including promising new research areas; an assessment of the relationship between the institute's grants and the overall strategy of its research program; and a report of the institute's strategic research and financial plans.

(b) Independent Financial Audit for Review by State Controller

The institute shall annually commission an independent financial audit of its activities from a certified public accounting firm, which shall be provided to the State Controller, who shall review the audit and annually issue a public report of that review.

(c) Citizen's Financial Accountability Oversight Committee

There shall be a Citizen's Financial Accountability Oversight Committee chaired by the State Controller. This committee shall review the annual financial audit, the State Controller's report and evaluation of that audit, and the financial practices of the institute. The State Controller, the State Treasurer, the President pro Tempore of the Senate, the Speaker of the Assembly, and the Chairperson of the ICOC shall each appoint a public member of the committee. Committee members

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shall have medical backgrounds and knowledge of relevant financial matters. The committee shall provide recommendations on the institute's financial practices and performance. The State Controller shall provide staff support. The committee shall hold a public meeting, with appropriate notice, and with a formal public comment period. The committee shall evaluate public comments and include appropriate summaries in its annual report. The ICOC shall provide funds for the per diem expenses of the committee members and for publication of the annual report.

(d) Public Meeting Laws

(1) The ICOC shall hold at least two public meetings per year, one of which will be designated as the institute's annual meeting. The ICOC may hold additional meetings as it determines are necessary or appropriate.

(2) The Bagley-Keene Open Meeting Act, Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code, shall apply to all meetings of the ICOC, except as otherwise provided in this section. The ICOC shall award all grants, loans, and contracts in public meetings and shall adopt all governance, scientific, medical, and regulatory standards in public meetings.

(3) The ICOC may conduct closed sessions as permitted by the Bagley-Keene Open Meeting Act, under Section 11126 of the Government Code. In addition, the ICOC may conduct closed sessions when it meets to consider or discuss:

(A) Matters involving information relating to patients or medical subjects, the disclosure of which would constitute an unwarranted invasion of personal privacy.

(B) Matters involving confidential intellectual property or work product, whether patentable or not, including, but not limited to, any formula, plan, pattern, process, tool, mechanism, compound, procedure, production data, or compilation of information, which is not patented, which is known only to certain individuals who are using it to fabricate, produce, or compound an article of trade or a service having commercial value and which gives its user an opportunity to obtain a business advantage over competitors who do not know it or use it.

(C) Matters involving prepublication, confidential scientific research or data.

(D) Matters concerning the appointment, employment, performance, compensation, or dismissal of institute officers and employees. Action on compensation of the institute's officers and employees shall only be taken in open session.

(4) The meeting required by paragraph (2) of subdivision (b) of Section 125290.20 shall be deemed to be a special meeting for the purposes of Section 11125.4 of the Government Code.

(e) Public Records

(1) The California Public Records Act, Article 1 (commencing with Section 6250) of Chapter 3.5 of Division 7 of Title 1 of the Government Code, shall apply to all records of the institute, except as otherwise provided in this section.

(2) Nothing in this section shall be construed to require disclosure of any records that are any of the following:

(A) Personnel, medical, or similar files, the disclosure of which would constitute an unwarranted invasion of personal privacy.

(B) Records containing or reflecting confidential intellectual property or work product, whether patentable or not, including, but not limited to, any formula, plan, pattern, process, tool, mechanism, compound, procedure, production data, or compilation of information, which is not patented, which is known only to certain individuals who are using it to fabricate, produce, or compound an article of trade or a service having commercial value and which gives its user an opportunity to obtain a business advantage over competitors who do not know it or use it.

(C) Prepublication scientific working papers or research data.

(f) Competitive Bidding

(1) The institute shall, except as otherwise provided in this section, be governed by the competitive bidding requirements applicable to the University of California, as set forth in Article 1 (commencing with Section 10500) of Chapter 2.1 of Part 2 of Division 2 of the Public Contract Code.

(2) For all institute contracts, the ICOC shall follow the procedures required of the Regents by Article 1 (commencing with Section 10500) of Chapter 2.1 of Part 2 of Division 2 of the Public Contract Code with respect to contracts let by the University of California.

(3) The requirements of this section shall not be applicable to grants or loans approved by the ICOC.

(4) Except as provided in this section, the Public Contract Code shall not apply to contracts let by the institute.

(g) Conflicts of Interest

(1) The Political Reform Act, Title 9 (commencing with Section 81000) of the Government Code, shall apply to the institute and to the ICOC, except as provided in this section and in subdivision (e) of Section 125290.50.

(A) No member of the ICOC shall make, participate in making, or in any way attempt to use his or her official position to influence a decision to approve or award a grant, loan, or contract to his or her employer, but a member may participate in a decision to approve or award a grant, loan, or contract to a nonprofit entity in the same field as his or her employer.

(B) A member of the ICOC may participate in a decision to approve or award a grant, loan, or contract to an entity for the purpose of research involving a disease from which a member or his or her immediate family suffers or in which the member has an interest as a representative of a disease advocacy organization.

(C) The adoption of standards is not a decision subject to this section.

(2) Service as a member of the ICOC by a member of the faculty or administration of any system of the University of California shall not, by itself, be deemed to be inconsistent, incompatible, in conflict with, or inimical to the duties of the ICOC member as a member of the faculty or administration of any system of the University of California and shall not result in the automatic vacation of either such office. Service as a member of the ICOC by a representative or employee of a disease advocacy organization, a nonprofit academic and research institution, or a life science commercial entity shall not be deemed to be inconsistent, incompatible, in conflict with, or inimical to the duties of the ICOC member as a representative or employee of that organization, institution, or entity.

(3) Section 1090 of the Government Code shall not apply to any grant, loan, or contract made by the ICOC except where both of the following conditions are met:

(A) The grant, loan, or contract directly relates to services to be provided by any member of the ICOC or the entity the member represents or financially benefits the member or the entity he or she represents.

(B) The member fails to recuse himself or herself from making, participating in making, or in any way attempting to use his or her official position to influence a decision on the grant loan or contract.

(h) Patent Royalties and License Revenues Paid to the State of California

The ICOC shall establish standards that require that all grants and loan awards be subject to intellectual property agreements that balance the opportunity of the State of California to benefit from the patents, royalties, and licenses that result from basic research, therapy development, and clinical trials with the need to assure that essential medical research is not unreasonably hindered by the intellectual property agreements.

(i) Preference for California Suppliers

The ICOC shall establish standards to ensure that grantees purchase goods and services from California suppliers to the extent reasonably possible, in a good faith effort to achieve a goal of more than 50 percent of such purchases from California suppliers.

125290.35. Medical and Scientific Accountability Standards

(a) Medical Standards

In order to avoid duplication or conflicts in technical standards for scientific and medical research, with alternative state programs, the institute will develop its own scientific and medical standards to carry out the specific controls and intent of the act, notwithstanding subdivision (b) of Section 125300, Sections 125320, 125118, 125118.5, 125119, 125119.3 and 125119.5, or any other current or future state laws or regulations dealing with the study and research of pluripotent stem cells and/or progenitor cells, or other vital research opportunities, except Section 125315. The ICOC, its working committees, and its grantees shall be governed solely by the provisions of this act in the establishment of standards, the award of grants, and the conduct of grants awarded pursuant to this act.

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(b) The ICOC shall establish standards as follows:

(1) Informed Consent

Standards for obtaining the informed consent of research donors, patients, or participants, which initially shall be generally based on the standards in place on January 1, 2003, for all research funded by the National Institutes of Health, with modifications to adapt to the mission and objectives of the institute.

(2) Controls on Research Involving Humans

Standards for the review of research involving human subjects which initially shall be generally based on the Institutional Review Board standards promulgated by the National Institutes of Health and in effect on January 1, 2003, with modifications to adapt to the mission and objectives of the institute.

(3) Prohibition on Compensation

Standards prohibiting compensation to research donors or participants, while permitting reimbursement of expenses.

(4) Patient Privacy Laws

Standards to assure compliance with state and federal patient privacy laws.

(5) Limitations on Payments for Cells

Standards limiting payments for the purchase of stem cells or stem cell lines to reasonable payment for the removal, processing, disposal, preservation, quality control, storage, transplantation, or implantation or legal transaction or other administrative costs associated with these medical procedures and specifically including any required payments for medical or scientific technologies, products, or processes for royalties, patent, or licensing fees or other costs for intellectual property.

(6) Time Limits for Obtaining Cells

Standards setting a limit on the time during which cells may be extracted from blastocysts, which shall initially be 8 to 12 days after cell division begins, not counting any time during which the blastocysts and/or cells have been stored frozen.

125290.40. ICOC Functions

The ICOC shall perform the following functions:

(a) Oversee the operations of the institute.

(b) Develop annual and long-term strategic research and financial plans for the institute.

(c) Make final decisions on research standards and grant awards in California.

(d) Ensure the completion of an annual financial audit of the institute's operations.

(e) Issue public reports on the activities of the institute.

(f) Establish policies regarding intellectual property rights arising from research funded by the institute.

(g) Establish rules and guidelines for the operation of the ICOC and its working groups.

(h) Perform all other acts necessary or appropriate in the exercise of its power, authority, and jurisdiction over the institute.

(i) Select members of the working groups.

(j) Adopt, amend, and rescind rules and regulations to carry out the purposes and provisions of this chapter, and to govern the procedures of the ICOC. Except as provided in subdivision (k), these rules and regulations shall be adopted in accordance with the Administrative Procedure Act (Government Code, Title 2, Division 3, Part 1, Chapter 4.5, Sections 11371 et seq.).

(k) Notwithstanding the Administrative Procedure Act (APA), and in order to facilitate the immediate commencement of research covered by this chapter, the ICOC may adopt interim regulations without compliance with the procedures set forth in the APA. The interim regulations shall remain in effect for 270 days unless earlier superseded by regulations adopted pursuant to the APA.

(l) Request the issuance of bonds from the California Stem Cell Research and Cures Finance Committee and loans from the Pooled Money Investment Board.

(m) May annually modify its funding and finance programs to optimize the institute's ability to achieve the objective that its activities be revenue-positive for the State of California during its first five years of operation without jeopardizing the progress of its core medical and scientific research program.

(n) Notwithstanding Section 11005 of the Government Code, accept additional revenue and real and personal property, including, but not limited to, gifts, royalties, interest, and appropriations that may be used to supplement annual research grant funding and the operations of the institute.

125290.45. ICOC Operations

(a) Legal Actions and Liability

(1) The institute may sue and be sued.

(2) Based upon ICOC standards, institute grantees shall indemnify or insure and hold the institute harmless against any and all losses, claims, damages, expenses, or liabilities, including attorneys' fees, arising from research conducted by the grantee pursuant to the grant, and/or, in the alternative, grantees shall name the institute as an additional insured and submit proof of such insurance.

(3) Given the scientific, medical, and technical nature of the issues facing the ICOC, and notwithstanding Section 11042 of the Government Code, the institute is authorized to retain outside counsel when the ICOC determines that the institute requires specialized services not provided by the Attorney General's office.

(4) The institute may enter into any contracts or obligations which are authorized or permitted by law.

(b) Personnel

(1) The ICOC shall from time to time determine the total number of authorized employees for the institute, up to a maximum of 50 employees, excluding members of the working groups, who shall not be considered institute employees. The ICOC shall select a chairperson, vice chairperson and president who shall exercise all of the powers delegated to them by the ICOC. The following functions apply to the chairperson, vice chairperson, and president:

(A) The chairperson's primary responsibilities are to manage the ICOC agenda and work flow including all evaluations and approvals of scientific and medical working group grants, loans, facilities, and standards evaluations, and to supervise all annual reports and public accountability requirements; to manage and optimize the institute's bond financing plans and funding cash flow plan; to interface with the California Legislature, the United States Congress, the California health care system, and the California public; to optimize all financial leverage opportunities for the institute; and to lead negotiations for intellectual property agreements, policies, and contract terms. The chairperson shall also serve as a member of the Scientific and Medical Accountability Standards Working Group and the Scientific and Medical Research Facilities Working Group and as an ex-officio member of the Scientific and Medical Research Funding Working Group. The vice chairperson's primary responsibilities are to support the chairperson in all duties and to carry out those duties in the chairperson's absence.

(B) The president's primary responsibilities are to serve as the chief executive of the institute; to recruit the highest scientific and medical talent in the United States to serve the institute on its working groups; to serve the institute on its working groups; to direct ICOC staff and participate in the process of supporting all working group requirements to develop recommendations on grants, loans, facilities, and standards as well as to direct and support the ICOC process of evaluating and acting on those recommendations, the implementation of all decisions on these and general matters of the ICOC; to hire, direct, and manage the staff of the institute; to develop the budgets and cost control programs of the institute; to manage compliance with all rules and regulations on the ICOC, including the performance of all grant recipients; and to manage and execute all intellectual property agreements and any other contracts pertaining to the institute or research it funds.

(2) Each member of the ICOC except, the chairperson, vice chairperson, and president, shall receive a per diem of one hundred dollars ($100) per day (adjusted annually for cost of living) for each day actually spent in the discharge of the member's duties, plus reasonable and necessary travel and other expenses incurred in the performance of the member's duties.

(3) The ICOC shall establish daily consulting rates and expense reimbursement standards for the non-ICOC members of all of its working groups.

(4) Notwithstanding Section 19825 of the Government Code, the ICOC shall set compensation for the chairperson, vice chairperson, and president and other officers, and for the scientific, medical, technical, and administrative staff of the institute within the range of compensation levels for executive officers and scientific, medical, technical,

and administrative staff of medical schools within the University of California system and the nonprofit academic and research institutions described in paragraph (2) of subdivision (a) of Section 125290.20.

125290.50. Scientific and Medical Working Groups-General

(a) The institute shall have, and there is hereby established, three separate scientific and medical working groups as follows:

(1) Scientific and Medical Research Funding Working Group.

(2) Scientific and Medical Accountability Standards Working Group.

(3) Scientific and Medical Research Facilities Working Group.

(b) Working Group Members

Appointments of scientific and medical working group members shall be made by a majority vote of a quorum of the ICOC, within 30 days of the election and appointment of the initial ICOC members. The working group members' terms shall be six years except that, after the first six-year terms, the members' terms will be staggered so that one-third of the members shall be elected for a term that expires two years later, one-third of the members shall be elected for a term that expires four years later, and one-third of the members shall be elected for a term that expires six years later. Subsequent terms are for six years. Working group members may serve a maximum of two consecutive terms.

(c) Working Group Meetings

Each scientific and medical working group shall hold at least four meetings per year, one of which shall be designated as its annual meeting.

(d) Working Group Recommendations to the ICOC

Recommendations of each of the working groups may be forwarded to the ICOC only by a vote of a majority of a quorum of the members of each working group. If 35 percent of the members of any working group join together in a minority position, a minority report may be submitted to the ICOC. The ICOC shall consider the recommendations of the working groups in making its decisions on applications for research and facility grants and loan awards and in adopting regulatory standards. Each working group shall recommend to ICOC rules, procedures, and practices for that working group.

(e) Conflict of Interest

(1) The ICOC shall adopt conflict of interest rules, based on standards applicable to members of scientific review committees of the National Institutes of Health, to govern the participation of non-ICOC working group members.

(2) The ICOC shall appoint an ethics officer from among the staff of the institute.

(3) Because the working groups are purely advisory and have no final decisionmaking authority, members of the working groups shall not be considered public officials, employees, or consultants for purposes of the Political Reform Act (Title 9 (commencing with Section 81000) of the Government Code), Sections 1090 and 19990 of the Government Code, and Sections 10516 and 10517 of the Public Contract Code.

(f) Working Group Records

All records of the working groups submitted as part of the working groups' recommendations to the ICOC for approval shall be subject to the Public Records Act. Except as provided in this subdivision, the working groups shall not be subject to the provisions of Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code, or Article 1 (commencing with Section 6250) of Chapter 3.5 of Division 7 of Title 1 of the Government Code.

125290.55. Scientific and Medical Accountability Standards Working Group

(a) Membership

The Scientific and Medical Accountability Standards Working Group shall have 19 members as follows:

(1) Five ICOC members from the 10 groups that focus on disease-specific areas described in paragraphs (3), (4), and (5) of subdivision (a) of Section 125290.20.

(2) Nine scientists and clinicians nationally recognized in the field of pluripotent and progenitor cell research.

(3) Four medical ethicists.

(4) The Chairperson of the ICOC.

(b) Functions

The Scientific and Medical Accountability Standards Working Group shall have the following functions:

(1) To recommend to the ICOC scientific, medical, and ethical standards.

(2) To recommend to the ICOC standards for all medical, socioeconomic, and financial aspects of clinical trials and therapy delivery to patients, including, among others, standards for safe and ethical procedures for obtaining materials and cells for research and clinical efforts for the appropriate treatment of human subjects in medical research consistent with paragraph (2) of subdivision (b) of Section 125290.35, and to ensure compliance with patient privacy laws.

(3) To recommend to the ICOC modification of the standards described in paragraphs (1) and (2) as needed.

(4) To make recommendations to the ICOC on the oversight of funded research to ensure compliance with the standards described in paragraphs (1) and (2).

(5) To advise the ICOC, the Scientific and Medical Research Funding Working Group, and the Scientific and Medical Research Facilities Working Group, on an ongoing basis, on relevant ethical and regulatory issues.

125290.60. Scientific and Medical Research Funding Working Group

(a) Membership

The Scientific and Medical Research Funding Working Group shall have 23 members as follows:

(1) Seven ICOC members from the 10 disease advocacy group members described in paragraphs (3), (4), and (5) of subdivision (a) of Section 125290.20.

(2) Fifteen scientists nationally recognized in the field of stem cell research.

(3) The Chairperson of the ICOC.

(b) Functions

The Scientific and Medical Research Funding Working Group shall perform the following functions:

(1) Recommend to the ICOC interim and final criteria, standards, and requirements for considering funding applications and for awarding research grants and loans.

(2) Recommend to the ICOC standards for the scientific and medical oversight of awards.

(3) Recommend to the ICOC any modifications of the criteria, standards, and requirements described in paragraphs (1) and (2) above as needed.

(4) Review grant and loan applications based on the criteria, requirements, and standards adopted by the ICOC and make recommendations to the ICOC for the award of research, therapy development, and clinical trial grants and loans.

(5) Conduct peer group progress oversight reviews of grantees to ensure compliance with the terms of the award, and report to the ICOC any recommendations for subsequent action.

(6) Recommend to the ICOC standards for the evaluation of grantees to ensure that they comply with all applicable requirements. Such standards shall mandate periodic reporting by grantees and shall authorize the Scientific and Medical Research Funding Working Group to audit a grantee and forward any recommendations for action to the ICOC.

(7) Recommend its first grant awards within 60 days of the issuance of the interim standards.

(c) Recommendations for Awards

Award recommendations shall be based upon a competitive evaluation as follows:

(1) Only the 15 scientist members of the Scientific and Medical Research Funding Working Group shall score grant and loan award applications for scientific merit. Such scoring shall be based on scientific merit in three separate classifications—research, therapy development, and clinical trials, on criteria including the following:

(A) A demonstrated record of achievement in the areas of pluripotent stem cell and progenitor cell biology and medicine, unless the research is determined to be a vital research opportunity.

(B) The quality of the research proposal, the potential for achieving significant research, or clinical results, the timetable for realizing such significant results, the importance of the research objectives, and the innovativeness of the proposed research.

(C) In order to ensure that institute funding does not duplicate or supplant existing funding, a high priority shall be placed on funding pluripotent stem cell and progenitor cell research that cannot, or is unlikely to, receive timely or sufficient federal funding, unencumbered by limitations that would impede the research. In this regard, other research categories funded by the National Institutes of Health shall not be funded by the institute.

(D) Notwithstanding subparagraph (C), other scientific and medical research and technologies and/or any stem cell research proposal not actually funded by the institute under subparagraph (C) may be funded by the institute if at least two-thirds of a quorum of the members of the Scientific and Medical Research Funding Working Group recommend to the ICOC that such a research proposal is a vital research opportunity.

125290.65. Scientific and Medical Facilities Working Group

(a) Membership

The Scientific and Medical Research Facilities Working Group shall have 11 members as follows:

(1) Six members of the Scientific and Medical Research Funding Working Group.

(2) Four real estate specialists. To be eligible to serve on the Scientific and Medical Research Facilities Working Group, a real estate specialist shall be a resident of California, shall be prohibited from receiving compensation from any construction or development entity providing specialized services for medical research facilities, and shall not provide real estate facilities brokerage services for any applicant for, or any funding by the Scientific and Medical Research Facilities Working Group and shall not receive compensation from any recipient of institute funding grants.

(3) The Chairperson of the ICOC.

(b) Functions

The Scientific and Medical Research Facilities Working Group shall perform the following functions:

(1) Make recommendations to the ICOC on interim and final criteria, requirements, and standards for applications for, and the awarding of, grants and loans for buildings, building leases, and capital equipment; those standards and requirements shall include, among others:

(A) Facility milestones and timetables for achieving such milestones.

(B) Priority for applications that provide for facilities that will be available for research no more than two years after the grant award.

(C) The requirement that all funded facilities and equipment be located solely within California.

(D) The requirement that grantees comply with reimbursable building cost standards, competitive building leasing standards, capital equipment cost standards, and reimbursement standards and terms recommended by the Scientific and Medical Facilities Funding Working Group, and adopted by the ICOC.

(E) The requirement that grantees shall pay all workers employed on construction or modification of the facility funded by facilities grants or loans of the institute, the general prevailing rate of per diem wages for work of a similar character in the locality in which work on the facility is performed, and not less than the general prevailing rate of per diem wages for holiday and overtime work fixed as provided in Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 of the Labor Code.

(F) The requirement that grantees be not-for-profit entities.

(G) The requirement that awards be made on a competitive basis, with the following minimum requirements:

(i) That the grantee secure matching funds from sources other than the institute equal to at least 20 percent of the award. Applications of equivalent merit, as determined by the Scientific and Medical Research Funding Working Group, considering research opportunities to be conducted in the proposed research facility, shall receive priority to the extent that they provide higher matching fund amounts. The Scientific and Medical Research Facilities Working Group may recommend waiving the matching fund requirement in extraordinary cases of high merit or urgency.

(ii) That capital equipment costs and capital equipment loans be allocated when equipment costs can be recovered in part by the grantee from other users of the equipment.

(2) Make recommendations to the ICOC on oversight procedures to ensure grantees' compliance with the terms of an award.

125290.70. Appropriation and Allocation of Funding

(a) Moneys in the California Stem Cell Research and Cures Fund shall be allocated as follows:

(1) (A) No less than 97 percent of the proceeds of the bonds authorized pursuant to Section 125291.30, after allocation of bond proceeds to purposes described in paragraphs (4) and (5) of subdivision (a) of Section 125291.20, shall be used for grants and grant oversight as provided in this chapter.

(B) Not less than 90 percent of the amount used for grants shall be used for research grants, with no more than the following amounts as stipulated below to be committed during the first 10 years of grant making by the institute, with each year's commitments to be advanced over a period of one to seven years, except that any such funds that are not committed may be carried over to one or more following years. The maximum amount of research funding to be allocated annually as follows: Year 1, 5.6 percent; Year 2, 9.4 percent; Year 3, 9.4 percent; Year 4, 11.3 percent; Year 5, 11.3 percent; Year 6, 11.3 percent; Year 7, 11.3 percent; Year 8, 11.3 percent; Year 9, 11.3 percent; and Year 10, 7.5 percent.

(C) Not more than 3 percent of the proceeds of bonds authorized by Section 125291.30 may be used by the institute for research and research facilities implementation costs, including the development, administration, and oversight of the grant making process and the operations of the working groups.

(2) Not more than 3 percent of the proceeds of the bonds authorized pursuant to Section 125291.30 shall be used for the costs of general administration of the institute.

(3) In any single year any new research funding to any single grantee for any program year is limited to no more than 2 percent of the total bond authorization under this chapter. This limitation shall be considered separately for each new proposal without aggregating any prior year approvals that may fund research activities. This requirement shall be determinative, unless 65 percent of a quorum of the ICOC approves a higher limit for that grantee.

(4) Recognizing the priority of immediately building facilities that ensure the independence of the scientific and medical research of the institute, up to 10 percent of the proceeds of the bonds authorized pursuant to Section 125291.30, net of costs described in paragraphs (2), (4), and (5) of subdivision (a) of Section 125291.20 shall be allocated for grants to build scientific and medical research facilities of nonprofit entities which are intended to be constructed in the first five years.

(5) The institute shall limit indirect costs to 25 percent of a research award, excluding amounts included in a facilities award, except that the indirect cost limitation may be increased by that amount by which the grantee provides matching funds in excess of 20 percent of the grant amount.

(b) To enable the institute to commence operating during the first six months following the adoption of the measure adding this chapter, there is hereby appropriated from the General Fund as a temporary start-up loan to the institute three million dollars ($3,000,000) for initial administrative and implementation costs. All loans to the institute pursuant to this appropriation shall be repaid to the General Fund within 12 months of each loan draw from the proceeds of bonds sold pursuant to Section 125291.30.

(c) The institute's funding schedule is designed to create a positive tax revenue stream for the State of California during the institute's first five calendar years of operations, without drawing funds from the General Fund for principal and interest payments for those first five calendar years.

Article 2. California Stem Cell Research and Cures Bond Act of 2004

125291.10. This article shall be known, and may be cited, as the California Stem Cell Research and Cures Bond Act of 2004.

125291.15. As used in this article, the following terms have the following meaning:

(a) "Act" means the California Stem Cell Research and Cures Bond Act constituting Chapter 3 (commencing with Section 125290.10) of Part 5 of Division 106.

(b) "Board" or "institute" means the California Institute for Regenerative Medicine designated in accordance with subdivision (b) of Section 125291.40.

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(c) "Committee" means the California Stem Cell Research and Cures Finance Committee created pursuant to subdivision (a) of Section 125291.40.

(d) "Fund" means the California Stem Cell Research and Cures Fund created pursuant to Section 125291.25.

(e) "Interim debt" means any interim loans pursuant to subdivision (b) of Section 125290.70, and Sections 125291.60 and 125291.65, bond anticipation notes or commercial paper notes issued to make deposits into the fund and which will be paid from the proceeds of bonds issued pursuant to this article.

125291.20. (a) Notwithstanding Section 13340 of the Government Code or any other provision of law, moneys in the fund are appropriated without regard to fiscal years to the institute for the purpose of (1) making grants or loans to fund research and construct facilities for research, all as described in and pursuant to the act, (2) paying general administrative costs of the institute (not to exceed 3 percent of the net proceeds of each sale of bonds), (3) paying the annual administration costs of the interim debt or bonds after December 31 of the fifth full calendar year after this article takes effect, (4) paying the costs of issuing interim debt, paying the annual administration costs of the interim debt until and including December 31 of the fifth full calendar year after this article takes effect, and paying interest on interim debt, if such interim debt is incurred or issued on or prior to December 31 of the fifth full calendar year after this article takes effect, and (5) paying the costs of issuing bonds, paying the annual administration costs of the bonds until and including December 31 of the fifth full calendar year after this article takes effect, and paying interest on bonds that accrues on or prior to December 31 of the fifth full calendar year after this article takes effect (except that such limitation does not apply to premium and accrued interest as provided in Section 125291.70). In addition, moneys in the fund or other proceeds of the sale of bonds authorized by this article may be used to pay principal of or redemption premium on any interim debt issued prior to the issuance of bonds authorized by this article. Moneys deposited in the fund from the proceeds of interim debt may be used to pay general administrative costs of the institute without regard to the 3 percent limit set forth in (2) above, so long as such 3 percent limit is satisfied for each issue of bonds.

(b) Repayment of principal and interest on any loans made by the institute pursuant to this article shall be deposited in the fund and used to make additional grants and loans for the purposes of this act or for paying continuing costs of the annual administration of outstanding bonds.

125291.25. The proceeds of interim debt and bonds issued and sold pursuant to this article shall be deposited in the State Treasury to the credit of the California Stem Cell Research and Cures Fund, which is hereby created in the State Treasury, except to the extent that proceeds of the issuance of bonds are used directly to repay interim debt.

125291.30. Bonds in the total amount of three billion dollars ($3,000,000,000), not including the amount of any refunding bonds issued in accordance with Section 125291.75, or as much thereof as is necessary, may be issued and sold to provide a fund to be used for carrying out the purposes expressed in this article and to be used and sold for carrying out the purposes of Section 125291.20 and to reimburse the General Obligation Bond Expense Revolving Fund pursuant to Section 16724.5 of the Government Code. The bonds, when sold, shall be and shall constitute a valid and binding obligation of the State of California, and the full faith and credit of the State of California is hereby pledged for the punctual payment of both the principal of, and interest on, the bonds as the principal and interest become due and payable.

125291.35. The bonds authorized by this article shall be prepared, executed, issued, sold, paid, and redeemed as provided in the State General Obligation Bond Law (Chapter 4 (commencing with Section 16720) of Part 3 of Division 4 of Title 2 of the Government Code), and all of the provisions of that law except Section 16727 apply to the bonds and to this article and are hereby incorporated in this article as though set forth in full in this article.

125291.40. (a) Solely for the purpose of authorizing the issuance and sale, pursuant to the State General Obligation Bond Law, of the bonds and interim debt authorized by this article, the California Stem Cell Research and Cures Finance Committee is hereby created. For purposes of this article, the California Stem Cell Research and Cures Finance Committee is "the committee" as that term is used in the State General Obligation Bond Law. The committee consists of the Treasurer, the Controller, the Director of Finance, the Chairperson of the California Institute for Regenerative Medicine, and two other members of the Independent Citizens Oversight Committee (as created by the act) chosen by the Chairperson of the California Institute for Regenerative Medicine, or their designated representatives. The Treasurer shall serve as chairperson of the committee. A majority of the committee may act for the committee.

(b) For purposes of the State General Obligation Bond Law, the California Institute for Regenerative Medicine is designated the "board."

125291.45. (a) The committee shall determine whether or not it is necessary or desirable to issue bonds authorized pursuant to this article in order to carry out the actions specified in this article and, if so, the amount of bonds to be issued and sold. Successive issues of bonds may be authorized and sold to carry out those actions progressively, and it is not necessary that all of the bonds authorized to be issued be sold at any one time. The bonds may bear interest which is includable in gross income for federal income tax purposes if the committee determines that such treatment is necessary in order to provide funds for the purposes of the act.

(b) The total amount of the bonds authorized by Section 125291.30 which may be issued in any calendar year, commencing in 2005, shall not exceed three hundred fifty million dollars ($350,000,000). If less than this amount of bonds is issued in any year, the remaining permitted amount may be carried over to one or more subsequent years.

(c) An interest-only floating rate bond structure will be implemented for interim debt and bonds until at least December 31 of the fifth full calendar year after this article takes effect, with all interest to be paid from proceeds from the sale of interim debt or bonds, to minimize debt service payable from the General Fund during the initial period of basic research and therapy development, if the committee determines, with the advice of the Treasurer, that this structure will result in the lowest achievable borrowing costs for the state during that five-year period considering the objective of avoiding any bond debt service payments, by the General Fund, during that period. Upon such initial determination, the committee may delegate, by resolution, to the Treasurer such authority in connection with issuance of bonds as it may determine, including, but not limited to, the authority to implement and continue this bond financing structure (including during any time following the initial five-year period) and to determine that an alternate financing plan would result in significant lower borrowing costs for the state consistent with the objectives related to the General Fund and to implement such alternate financing plan.

125291.50. There shall be collected each year and in the same manner and at the same time as other state revenue is collected, in addition to the ordinary revenues of the state, a sum in an amount required to pay the principal of, and interest on, the bonds maturing each year. It is the duty of all officers charged by law with any duty in regard to the collection of the revenue to do and perform each and every act that is necessary to collect that additional sum.

125291.55. Notwithstanding Section 13340 of the Government Code, there is hereby appropriated from the General Fund in the State Treasury, for the purposes of this article, an amount that will equal the total of the following:

(a) The sum annually necessary to pay the principal of, and interest on, bonds issued and sold pursuant to this article, as the principal and interest become due and payable.

(b) The sum necessary to carry out Section 125291.60 appropriated without regard to fiscal years.

125291.60. The Director of Finance may authorize the withdrawal from the General Fund of an amount or amounts, not to exceed the amount of the unsold bonds that have been authorized by the committee, to be sold for the purpose of carrying out this article. Any amount withdrawn shall be deposited in the fund. Any money made available under this section shall be returned to the General Fund, plus an amount equal to the interest that the money would have earned in the Pooled Money Investment Account, from money received from the sale of bonds for the purpose of carrying out this article.

125291.65. The institute may request the Pooled Money Investment Board to make a loan from the Pooled Money Investment Account in accordance with Section 16312 of the Government Code for the purposes of carrying out this article. The amount of the request shall not exceed the amount of the unsold bonds that the committee, by resolution, has authorized to be sold for the purpose of carrying out this article. The institute shall execute any documents required by the Pooled Money Investment Board to obtain and repay the loan. Any amounts loaned shall be deposited in the fund to be allocated by the institute in accordance with this article.

125291.70. All money deposited in the fund that is derived from premium and accrued interest on bonds sold shall be reserved in the fund and shall be available for transfer to the General Fund as a credit to expenditures for bond interest.

125291.75. The bonds may be refunded in accordance with Article 6 (commencing with Section 16780) of Chapter 4 of Part 3 of Division 4 of Title 2 of the Government Code, which is a part of the State General Obligation Bond Law. Approval by the voters of the state for the issuance of the bonds described in this article includes the approval of the issuance of any bonds issued to refund any bonds originally issued under this article or any previously issued refunding bonds.

125291.80. Notwithstanding any provision of this article or the State General Obligation Bond Law, if the Treasurer sells bonds pursuant to this article that include a bond counsel opinion to the effect that the interest on the bonds is excluded from gross income for federal tax purposes, subject to designated conditions, the Treasurer may maintain separate accounts for the investment of bond proceeds and the investment earnings on those proceeds. The Treasurer may use or direct the use of those proceeds or earnings to pay any rebate, penalty, or other payment required under federal law or to take any other action with respect to the investment and use of bond proceeds required or desirable under federal law to maintain the tax-exempt status of those bonds and to obtain any other advantage under federal law on behalf of the funds of this state.

125291.85. Inasmuch as the proceeds from the sale of bonds authorized by this article are not "proceeds of taxes" as that term is used in Article XIII B of the California Constitution, the disbursement of these proceeds is not subject to the limitations imposed by that article.

Article 3. Definitions

125292.10. As used in this chapter and in Article XXXV of the California Constitution, the following terms have the following meanings:

(a) "Act" means the California Stem Cell Research and Cures Bond Act constituting Chapter 3 (commencing with Section 125290.10) of Part 5 of Division 106 of the Health and Safety Code.

(b) "Adult stem cell" means an undifferentiated cell found in a differentiated tissue in an adult organism that can renew itself and may, with certain limitations, differentiate to yield all the specialized cell types of the tissue from which it originated.

(c) "Capitalized interest" means interest funded by bond proceeds.

(d) "Committee" means the California Stem Cell Research and Cures Finance Committee created pursuant to subdivision (a) of Section 125291.40.

(e) "Constitutional officers" means the Governor, Lieutenant Governor, Treasurer, and Controller of California.

(f) "Facilities" means buildings, building leases, or capital equipment.

(g) "Floating-rate bonds" means bonds which do not bear a fixed rate of interest until their final maturity date, including commercial paper notes.

(h) "Fund" means the California Stem Cell Research and Disease Cures Fund created pursuant to Section 125291.25.

(i) "Grant" means a grant, loan, or guarantee.

(j) "Grantee" means a recipient of a grant from the institute. All University of California grantee institutions shall be considered as separate and individual grantee institutions.

(k) "Human reproductive cloning" means the practice of creating or attempting to create a human being by transferring the nucleus from a human cell into an egg cell from which the nucleus has been removed for the purpose of implanting the resulting product in a uterus to initiate a pregnancy.

(l) "Indirect costs" mean the recipient's costs in the administration, accounting, general overhead, and general support costs for implementing a grant or loan of the institute. NIH definitions of indirect costs will be utilized as one of the bases by the Scientific and Medical Research Standards Working Group to create a guideline for recipients on this definition, with modifications to reflect guidance by the ICOC and this act.

(m) "Institute" means the California Institute for Regenerative Medicine.

(n) "Interim standards" means temporary standards that perform the same function as "emergency regulations" under the Administrative Procedure Act (Government Code, Title 2, Division 3, Part 1, Chapter 4.5, Sections 11371 et seq.) except that in order to provide greater opportunity for public comment on the permanent regulations, remain in force for 270 days rather than 180 days.

(o) "Life science commercial entity" means a firm or organization, headquartered in California, whose business model includes biomedical or biotechnology product development and commercialization.

(p) "Medical ethicist" means an individual with advanced training in ethics who holds a Ph.D., MA, or equivalent training and who spends or has spent substantial time (1) researching and writing on ethical issues related to medicine, and (2) administering ethical safeguards during the clinical trial process, particularly through service on institutional review boards.

(q) "Pluripotent cells" means cells that are capable of self-renewal, and have broad potential to differentiate into multiple adult cell types. Pluripotent stem cells may be derived from somatic cell nuclear transfer or from surplus products of in vitro fertilization treatments when such products are donated under appropriate informed consent procedures. These excess cells from in vitro fertilization treatments would otherwise be intended to be discarded if not utilized for medical research.

(r) "Progenitor cells" means multipotent or precursor cells that are partially differentiated but retain the ability to divide and give rise to differentiated cells.

(s) "Quorum" means at least 65 percent of the members who are eligible to vote.

(t) "Research donor" means a human who donates biological materials for research purposes after full disclosure and consent.

(u) "Research funding" includes interdisciplinary scientific and medical funding for basic research, therapy development, and the development of pharmacologies and treatments through clinical trials. When a facility's grant or loan has not been provided to house all elements of the research, therapy development, and/or clinical trials, research funding shall include an allowance for a market lease rate of reimbursement for the facility. In all cases, operating costs of the facility, including, but not limited to, library and communication services, utilities, maintenance, janitorial, and security, shall be included as direct research funding costs. Legal costs of the institute incurred in order to negotiate standards with federal and state governments and research institutions; to implement standards or regulations; to resolve disputes; and/or to carry out all other actions necessary to defend and/or advance the institute's mission shall be considered direct research funding costs.

(v) "Research participant" means a human enrolled with full disclosure and consent, and participating in clinical trials.

(w) "Revenue positive" means all state tax revenues generated directly and indirectly by the research and facilities of the institute are greater than the debt service on the state bonds actually paid by the General Fund in the same year.

(x) "Stem cells" mean nonspecialized cells that have the capacity to divide in culture and to differentiate into more mature cells with specialized functions.

(y) "Vital research opportunity" means scientific and medical research and technologies and/or any stem cell research not actually funded by the institute under subparagraph (C) of paragraph (1) of subdivision (c) of Section 125290.60 which provides a substantially superior research opportunity vital to advance medical science as determined by at least a two-thirds vote of a quorum of the members of the Scientific and Medical Research Funding Working Group and recommended as such by that working group to the ICOC. Human reproductive cloning shall not be a vital research opportunity.

SEC. 6. Section 20069 of the Government Code is amended to read:

(a) "State service" means service rendered as an employee or officer (employed, appointed or elected) of the state, *the California Institute for Regenerative Medicine and the officers and employees of its governing body,* the university, a school employer, or a contracting agency, for compensation, and only while he or she is receiving compensation from that employer therefor, except as provided in Article 4 (commencing with Section 20990) of Chapter 11.

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(b) "State service," solely for purposes of qualification for benefits and retirement allowances under this system, shall also include service rendered as an officer or employee of a county if the salary for the service constitutes compensation earnable by a member of this system under Section 20638.

SEC. 7. 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.

SEC. 8. Amendments

The statutory provisions of this measure, except the bond provisions, may be amended to enhance the ability of the institute to further the purposes of the grant and loan programs created by the measure, by a bill introduced and passed no earlier than the third full calendar year following adoption, by 70 percent of the membership of both houses of the Legislature and signed by the Governor, provided that at least 14 days prior to passage in each house, copies of the bill in final form shall be made available by the clerk of each house to the public and news media.

Proposition 72

This law proposed by Senate Bill 2 of the 2003–2004 Regular Session (Chapter 673, Statutes of 2003) is submitted to the people as a referendum in accordance with the provisions of Section 9 of Article II of the California Constitution.

This proposed law amends and adds sections to various codes; therefore, new provisions proposed to be added are printed in *italic type* to indicate that they are new.

PROPOSED LAW

SECTION 1. The Legislature finds and declares all of the following:

(a) The Legislature finds and declares that working Californians and their families should have health insurance coverage.

(b) The Legislature further finds and declares that most working Californians obtain their health insurance coverage through their employment.

(c) The Legislature finds and declares that in 2001, more than 6,000,000 Californians lacked health insurance coverage at some time and 3,600,000 Californians had no health insurance coverage at any time.

(d) The Legislature finds and declares that more than 80 percent of Californians without health insurance coverage are working people or their families. Most of these working Californians without health insurance coverage work for employers who do not offer health benefits.

(e) The Legislature finds and declares that employment-based health insurance coverage provides access for millions of Californians to the latest advances in medical science, including diagnostic procedures, surgical interventions, and pharmaceutical therapies.

(f) The Legislature finds and declares that people who are covered by health insurance have better health outcomes than those who lack coverage. Persons without health insurance are more likely to be in poor health, more likely to have missed needed medications and treatment, and more likely to have chronic conditions that are not properly managed.

(g) The Legislature finds and declares that persons without health insurance are at risk of financial ruin and that medical debt is the second most common cause of personal bankruptcy in the United States.

(h) The Legislature further finds and declares that the State of California provides health insurance to low- and moderate-income working parents and their children through the Medi-Cal and Healthy Families programs and pays the cost of coverage for those working people who are not provided health coverage through employment. The Legislature further finds and declares that the State of California and local governments fund county hospitals and clinics, community clinics, and other safety net providers that provide care to those working people whose employers fail to provide affordable health coverage to workers and their families as well as to other uninsured persons.

(i) The Legislature further finds and declares that controlling health care costs can be more readily achieved if a greater share of working people and their families have health benefits so that cost shifting is minimized.

(j) The Legislature finds and declares that the social and economic burden created by the lack of health coverage for some workers and their dependents creates a burden on other employers, the State of California, affected workers, and the families of affected workers who suffer ill health and risk financial ruin.

(k) It is therefore the intent of the Legislature to assure that working Californians and their families have health benefits and that employers pay a user fee to the State of California so that the state may serve as a purchasing agent to pool those fees to purchase coverage for all working Californians and their families that is not tied to employment with an individual employer. However, consistent with this act, if the employer voluntarily provides proof of health care coverage, that employer is to be exempted from payment of the fee.

(*l*) It is further the intent of the Legislature that workers who work on a seasonal basis, for multiple employers, or who work multiple jobs for the same employer should be afforded the opportunity to have health coverage in the same manner as those who work full-time for a single employer.

(m) The Legislature recognizes the vital role played by the health care safety net and the potential impact this act may have on the resources available to county hospital systems and clinics, including physicians or networks of physicians that refer patients to such hospitals and clinics, as well as community clinics and other safety net providers. It is the intent of the Legislature to preserve the viability of this important health care resource.

(n) Nothing in this act shall be construed to diminish or otherwise change existing protections in law for persons eligible for public programs including, but not limited to, Medi-Cal, Healthy Families, California Children's Services, Genetically Handicapped Persons Program, county mental health programs, programs administered by the Department of Alcohol and Drug Programs, or programs administered by local education agencies. It is further the intent of the Legislature to preserve benefits available to the recipients of these programs, including dental, vision, and mental health benefits.

SEC. 2. Part 8.7 (commencing with Section 2120) is added to Division 2 of the Labor Code, to read:

PART 8.7. EMPLOYEE HEALTH INSURANCE

CHAPTER 1. TITLE AND PURPOSE

2120. This part shall be known and may be cited as the Health Insurance Act of 2003.

2120.1. (a) Large employers, as defined in Section 2122.3, shall comply with the provisions of this part applicable to large employers commencing on January 1, 2006.

(b) Medium employers, as defined in Section 2122.4, shall comply with the provisions of this part applicable to medium employers commencing on January 1, 2007, except that those employers with at least 20 employees but no more than 49 employees are not required to comply with the provisions of this part unless a tax credit is enacted that is available to those employers with at least 20 employees but no more than 49 employees. The tax credit shall be 20 percent of net cost to the employer of the fee owed under Chapter 4 (commencing with Section 2140). "Net cost" means the dollar amount of the employer fee or the credit consistent with Section 2160.1 reduced by the employee share of that fee or credit and further reduced by the value of state and federal tax deductions.

2120.2. It is the purpose of this part to ensure that working Californians and their families are provided health care coverage.

2120.3. This part shall not be construed to diminish any protection already provided pursuant to collective bargaining agreements or employer-sponsored plans that are more favorable to the employees than the health care coverage required by this part.

public health and safety; preventing serious, repeated criminal activity; responding to an emergency; or remedying environmental contamination that poses a threat to public health and safety.

(d) Subdivision (b) of this section does not apply when State or local government exercises the power of eminent domain for the purpose of acquiring private property for a public work or improvement.

(e) For the purpose of this section:

1. "Conveyance" means a transfer of real property whether by sale, lease, gift, franchise, or otherwise.

2. "Local government" means any city, including a charter city, county, city and county, school district, special district, authority, regional entity, redevelopment agency, or any other political subdivision within the State.

3. "Owner-occupied residence" means real property that is improved with a single-family residence such as a detached home, condominium, or townhouse and that is the owner or owners' principal place of residence for at least one year prior to the State or local government's initial written offer to purchase the property. Owner-occupied residence also includes a residential dwelling unit attached to or detached from such a single-family residence which provides complete independent living facilities for one or more persons.

4. "Person" means any individual or association, or any business entity, including, but not limited to, a partnership, corporation, or limited liability company.

5. "Public work or improvement" means facilities or infrastructure for the delivery of public services such as education, police, fire protection, parks, recreation, emergency medical, public health, libraries, flood protection, streets or highways, public transit, railroad, airports and seaports; utility, common carrier or other similar projects such as energy-related, communication-related, water-related and wastewater-related facilities or infrastructure; projects identified by a State or local government for recovery from natural disasters; and private uses incidental to, or necessary for, the public work or improvement.

6. "State" means the State of California and any of its agencies or departments.

SECTION 3. By enacting this measure, the voters do not intend to change the meaning of the terms in subdivision (a) of Section 19, Article I of the California Constitution, including, without limitation, "taken," "damaged," "public use," and "just compensation," and deliberately do not impose any restrictions on the exercise of power pursuant to Section 19, Article I, other than as expressly provided for in this measure.

SECTION 4. The provisions of Section 19, Article I, together with the amendments made by this initiative, constitute the exclusive and comprehensive authority in the California Constitution for the exercise of the power of eminent domain and for the payment of compensation to property owners when private property is taken or damaged by state or local government. Nothing in this initiative shall limit the ability of the Legislature to provide compensation in addition to that which is required by Section 19 of Article I to property owners whose property is taken or damaged by eminent domain.

SECTION 5. The amendments made by this initiative shall not apply to the acquisition of real property if the initial written offer to purchase the property was made on or before the date on which this initiative becomes effective, and a resolution of necessity to acquire the real property by eminent domain was adopted on or before 180 days after that date.

SECTION 6. The words and phrases used in the amendments to Section 19, Article I of the California Constitution made by this initiative which are not defined in subdivision (e), shall be defined and interpreted in a manner that is consistent with the law in effect on January 1, 2007, and as that law may be amended or interpreted thereafter.

SECTION 7. The provisions of this measure shall be liberally construed in furtherance of its intent to provide homeowners with protection against exercises of eminent domain in which an owner-occupied residence is subsequently conveyed to a private person.

SECTION 8. 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 9. In the event that this measure appears on the same statewide election ballot as another initiative measure or measures that seek to affect the rights of property owners by directly or indirectly amending Section 19, Article I of the California Constitution, 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 each and every provision of the other measure or measures shall be null and void.

PROPOSITION 99

This initiative measure is submitted to the people of California in accordance with the provisions of Section 8 of Article II of the California Constitution.

This initiative measure amends a section of the California Constitution; therefore, new provisions proposed to be added are printed in *italic type* to indicate that they are new.

TITLE. This measure shall be known as the "Homeowners and Private Property Protection Act."

PROPOSED LAW

SECTION 1. PURPOSE AND INTENT

By enacting this measure, the people of California hereby express their intent to:

(a) Protect their homes from eminent domain abuse.

(b) Prohibit government agencies from using eminent domain to take an owner-occupied home to transfer it to another private owner or developer.

(c) Amend the California Constitution to respond specifically to the facts and the decision of the U.S. Supreme Court in Kelo v. City of New London, in which the Court held that it was permissible for a city to use eminent domain to take the home of a Connecticut woman for the purpose of economic development.

(d) Respect the decision of the voters to reject Proposition 90 in November 2006, a measure that included eminent domain reform but also included unrelated provisions that would have subjected taxpayers to enormous financial liability from a wide variety of traditional legislative and administrative actions to protect the public welfare.

(e) Provide additional protection for property owners without including provisions, such as those in Proposition 90, which subjected taxpayers to liability for the enactment of traditional legislative and administrative actions to protect the public welfare.

(f) Maintain the distinction in the California Constitution between Section 19, Article I, which establishes the law for eminent domain, and Section 7, Article XI, which establishes the law for legislative and administrative action to protect the public health, safety and welfare.

(g) Provide a comprehensive and exclusive basis in the California Constitution to compensate property owners when property is taken or damaged by state or local governments, without affecting legislative and administrative actions taken to protect the public health, safety and welfare.

SECTION 2. AMENDMENT TO THE CALIFORNIA CONSTITUTION

Section 19 of Article I of the California Constitution is amended to read:

SEC. 19. *(a)* Private property may be taken or damaged for *a* public use *and* only when just compensation, ascertained by a jury unless waived, has first been paid to, or into court for, the owner. The Legislature may provide for possession by the condemnor following commencement of eminent domain proceedings upon deposit in court and prompt release to the owner of money determined by the court to be the probable amount of just compensation.

(b) The State and local governments are prohibited from acquiring by eminent domain an owner-occupied residence for the purpose of conveying it to a private person.

(c) Subdivision (b) of this section does not apply when State or local government exercises the power of eminent domain for the purpose of protecting

bonds shall include approval of the issuance of any bonds issued to refund any bonds originally issued or any previously issued refunding bonds.

26436. The people of California hereby find and declare that inasmuch as the proceeds from the sale of bonds authorized by this division are not "proceeds of taxes" as that term is used in Article XIII B of the California Constitution, the disbursement of these proceeds is not subject to the limitation imposed by that article.

CHAPTER 6. ACCOUNTABILITY

26437. In addition to any other required reports, the State Energy Resources Conservation and Development Commission, the State Air Resources Board, and the Controller shall each issue an annual report to the Governor, the Legislature, and the public that sets forth their activities and accomplishments relating to this act and future program directions. Each annual report shall include, but not be limited to, the following information: the number and dollar amounts of incentives, including but not limited to grants, loans, loan guarantees, credits, buydowns, and rebates; the recipients of incentives for the prior year; the administrative expenses relating to the act; a summary of research findings, including promising new research areas and technological innovations; and an assessment of the relationship between the award of incentives and any applicable strategic plan.

SECTION 5. Competing, regulatory alternative.

A. In the event that another measure ("competing measure") appears on the same ballot as this act that seeks to adopt or impose provisions or requirements that differ in any regard to, or supplement, the provisions or requirements contained in this act, the voters hereby expressly declare their intent that if both the competing measure and this act receive a majority of votes cast, and this act receives a greater number of votes than the competing measure, this act shall prevail in its entirety over the competing measure without regard to whether specific provisions of each measure directly conflict with each other.

B. In the event that both the competing measure and this act receive a majority of votes cast, and the competing measure receives a greater number of votes than this act, this act shall be deemed complementary to the competing measure. To this end, and to the maximum extent permitted by law, the provisions of this act shall be fully adopted except to the extent that specific provisions contained in each measure are deemed to be in direct conflict with each other on a "provision-by-provision" basis pursuant to *Yoshisato v. Superior Court* (1992) 2 Cal.4th 978.

SECTION 6. Amendment. The provisions of this act may be amended to carry out its purpose and intent by statutes approved by a two-thirds vote of each house of the Legislature and signed by the Governor.

SECTION 7. Severability. If any provision of this act or the application thereof to any person or circumstances is held invalid, that invalidity shall not affect other provisions or applications of this act that can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

PROPOSITION 11

This initiative measure is submitted to the people in accordance with the provisions of Section 8 of Article II of the California Constitution.

This initiative measure amends and adds sections to the California Constitution and adds sections to the Government Code; therefore, existing provisions proposed to be deleted are printed in ~~strikeout type~~ and new provisions proposed to be added are printed in *italic type* to indicate that they are new.

PROPOSED LAW

SECTION 1. Title.

This act shall be known and may be cited as the "Voters FIRST Act."

SEC. 2. Findings and Purpose.

The People of the State of California hereby make the following findings and declare their purpose in enacting this act is as follows:

(a) Under current law, California legislators draw their own political districts. Allowing politicians to draw their own districts is a serious conflict of interest that harms voters. That is why 99 percent of incumbent politicians were reelected in the districts they had drawn for themselves in the recent elections.

(b) Politicians draw districts that serve their interests, not those of our communities. For example, cities such as Long Beach, San Jose and Fresno are divided into multiple oddly shaped districts to protect incumbent legislators. Voters in many communities have no political voice because they have been split into as many as four different districts to protect incumbent legislators. We need reform to keep our communities together so everyone has representation.

(c) This reform will make the redistricting process open so it cannot be controlled by the party in power. It will give us an equal number of Democrats and Republicans on the commission, and will ensure full participation of independent voters—whose voices are completely shut out of the current process. In addition, this reform requires support from Democrats, Republicans, and independents for approval of new redistricting plans.

(d) The independent Citizens Redistricting Commission will draw districts based on strict, nonpartisan rules designed to ensure fair representation. The reform takes redistricting out of the partisan battles of the Legislature and guarantees redistricting will be debated in the open with public meetings, and all minutes will be posted publicly on the Internet. Every aspect of this process will be open to scrutiny by the public and the press.

(e) In the current process, politicians are choosing their voters instead of voters having a real choice. This reform will put the voters back in charge.

SEC. 3. Amendment of Article XXI of the California Constitution.

SEC. 3.1. The heading of Article XXI of the California Constitution is amended to read:

ARTICLE XXI.
~~REAPPORTIONMENT~~ *REDISTRICTING* OF SENATE, ASSEMBLY, CONGRESSIONAL AND BOARD OF EQUALIZATION DISTRICTS.

SEC. 3.2. Section 1 of Article XXI of the California Constitution is amended to read:

SECTION 1. In the year following the year in which the national census is taken under the direction of Congress at the beginning of each decade, the Legislature shall adjust the boundary lines of ~~the Senatorial, Assembly, Congressional, and Board of Equalization~~ *congressional* districts in conformance with the following standards *and process*:

(a) Each member of ~~the Senate, Assembly,~~ Congress~~, and the Board of Equalization~~ shall be elected from a single-member district.

(b) The population of all *congressional* districts ~~of a particular type~~ shall be reasonably equal. *After following this criterion, the Legislature shall adjust the boundary lines according to the criteria set forth and prioritized in paragraphs (2), (3), (4), and (5) of subdivision (d) of Section 2. The Legislature shall issue, with its final map, a report that explains the basis on which it made its decisions in achieving compliance with these criteria and shall include definitions of the terms and standards used in drawing its final map.*

~~(c) Every district shall be contiguous.~~

~~(d)~~ *(c)* ~~Districts of each type~~ *Congressional districts* shall be numbered consecutively commencing at the northern boundary of the State and ending at the southern boundary.

~~(e) The geographical integrity of any city, county, or city and county, or of any geographical region shall be respected to the extent possible without violating the requirements of any other subdivision of this section.~~

(d) The Legislature shall coordinate with the Citizens Redistricting Commission established pursuant to Section 2 to hold concurrent hearings, provide access to redistricting data and software, and otherwise ensure full public participation in the redistricting process. The Legislature shall comply with the open hearing requirements of paragraphs (1), (2), (3), and (7) of subdivision (a) of, and subdivision (b) of, Section 8253 of the Government Code, or its successor provisions of statute.

SEC. 3.3. Section 2 is added to Article XXI of the California Constitution, to read:

SEC. 2. (a) The Citizens Redistricting Commission shall draw new district lines (also known as "redistricting") for State Senate, Assembly, and Board of Equalization districts. This commission shall be created no later than December 31 in 2010, and in each year ending in the number zero thereafter.

(b) The Citizens Redistricting Commission (hereinafter the "commission") shall: (1) conduct an open and transparent process enabling full public consideration of and comment on the drawing of district lines; (2) draw district lines according to the redistricting criteria specified in this article; and (3) conduct themselves with integrity and fairness.

(c) (1) The selection process is designed to produce a Citizens Redistricting Commission that is independent from legislative influence and reasonably representative of this State's diversity.

(2) The Citizens Redistricting Commission shall consist of 14 members, as follows: five who are registered with the largest political party in California based on registration, five who are registered with the second largest political party in California based on registration, and four who are not registered with

either of the two largest political parties in California based on registration.

(3) Each commission member shall be a voter who has been continuously registered in California with the same political party or unaffiliated with a political party and who has not changed political party affiliation for five or more years immediately preceding the date of his or her appointment. Each commission member shall have voted in two of the last three statewide general elections immediately preceding his or her application.

(4) The term of office of each member of the commission expires upon the appointment of the first member of the succeeding commission.

(5) Nine members of the commission shall constitute a quorum. Nine or more affirmative votes shall be required for any official action. The three final maps must be approved by at least nine affirmative votes which must include at least three votes of members registered from each of the two largest political parties in California based on registration and three votes from members who are not registered with either of these two political parties.

(6) Each commission member shall apply this article in a manner that is impartial and that reinforces public confidence in the integrity of the redistricting process. A commission member shall be ineligible for a period of 10 years beginning from the date of appointment to hold elective public office at the federal, state, county, or city level in this State. A member of the commission shall be ineligible for a period of five years beginning from the date of appointment to hold appointive federal, state, or local public office, to serve as paid staff for the Legislature or any individual legislator or to register as a federal, state, or local lobbyist in this State.

(d) The commission shall establish single-member districts for the Senate, Assembly, and State Board of Equalization pursuant to a mapping process using the following criteria as set forth in the following order of priority:

(1) Districts shall comply with the United States Constitution. Senate, Assembly, and State Board of Equalization districts shall have reasonably equal population with other districts for the same office, except where deviation is required to comply with the federal Voting Rights Act or allowable by law.

(2) Districts shall comply with the federal Voting Rights Act (42 U.S.C. Sec. 1971 and following).

(3) Districts shall be geographically contiguous.

(4) The geographic integrity of any city, county, city and county, neighborhood, or community of interest shall be respected to the extent possible without violating the requirements of any of the preceding subdivisions. Communities of interest shall not include relationships with political parties, incumbents, or political candidates.

(5) To the extent practicable, and where this does not conflict with the criteria above, districts shall be drawn to encourage geographical compactness such that nearby areas of population are not bypassed for more distant population.

(6) To the extent practicable, and where this does not conflict with the criteria above, each Senate district shall be comprised of two whole, complete, and adjacent Assembly districts, and each Board of Equalization district shall be comprised of 10 whole, complete, and adjacent Senate districts.

(e) The place of residence of any incumbent or political candidate shall not be considered in the creation of a map. Districts shall not be drawn for the purpose of favoring or discriminating against an incumbent, political candidate, or political party.

(f) Districts for the Senate, Assembly, and State Board of Equalization shall be numbered consecutively commencing at the northern boundary of the State and ending at the southern boundary.

(g) By September 15 in 2011, and in each year ending in the number one thereafter, the commission shall approve three final maps that separately set forth the district boundary lines for the Senate, Assembly, and State Board of Equalization districts. Upon approval, the commission shall certify the three final maps to the Secretary of State.

(h) The commission shall issue, with each of the three final maps, a report that explains the basis on which the commission made its decisions in achieving compliance with the criteria listed in subdivision (d) and shall include definitions of the terms and standards used in drawing each final map.

(i) Each certified final map shall be subject to referendum in the same manner that a statute is subject to referendum pursuant to Section 9 of Article II. The date of certification of a final map to the Secretary of State shall be deemed the enactment date for purposes of Section 9 of Article II.

(j) If the commission does not approve a final map by at least the requisite votes or if voters disapprove a certified final map in a referendum, the Secretary of State shall immediately petition the Supreme Court for an order directing the appointment of special masters to adjust the boundary lines of that map in accordance with the redistricting criteria and requirements set forth in subdivisions (d), (e), and (f). Upon its approval of the masters' map, the court shall certify the resulting map to the Secretary of State, which map shall constitute the certified final map for the subject type of district.

SEC. 3.4. Section 3 is added to Article XXI of the California Constitution, to read:

SEC. 3. (a) The commission has the sole legal standing to defend any action regarding a certified final map, and shall inform the Legislature if it determines that funds or other resources provided for the operation of the commission are not adequate. The Legislature shall provide adequate funding to defend any action regarding a certified map. The commission has sole authority to determine whether the Attorney General or other legal counsel retained by the commission shall assist in the defense of a certified final map.

(b) (1) The Supreme Court has original and exclusive jurisdiction in all proceedings in which a certified final map is challenged.

(2) Any registered voter in this state may file a petition for a writ of mandate or writ of prohibition, within 45 days after the commission has certified a final map to the Secretary of State, to bar the Secretary of State from implementing the plan on the grounds that the filed plan violates this Constitution, the United States Constitution, or any federal or state statute.

(3) The Supreme Court shall give priority to ruling on a petition for a writ of mandate or a writ of prohibition filed pursuant to paragraph (2). If the court determines that a final certified map violates this Constitution, the United States Constitution, or any federal or state statute, the court shall fashion the relief that it deems appropriate.

SEC. 4. Amendment of Government Code.

SEC. 4.1. Chapter 3.2 (commencing with Section 8251) is added to Division 1 of Title 2 of the Government Code, to read:

CHAPTER 3.2. CITIZENS REDISTRICTING COMMISSION

8251. Citizens Redistricting Commission General Provisions.

(a) This chapter implements Article XXI of the California Constitution by establishing the process for the selection and governance of the Citizens Redistricting Commission.

(b) For purposes of this chapter, the following terms are defined:

(1) "Commission" means the Citizens Redistricting Commission.

(2) "Day" means a calendar day, except that if the final day of a period within which an act is to be performed is a Saturday, Sunday, or holiday, the period is extended to the next day that is not a Saturday, Sunday, or holiday.

(3) "Panel" means the Applicant Review Panel.

(4) "Qualified independent auditor" means an auditor who is currently licensed by the California Board of Accountancy and has been a practicing independent auditor for at least 10 years prior to appointment to the Applicant Review Panel.

(c) The Legislature may not amend this chapter unless all of the following are met:

(1) By the same vote required for the adoption of the final set of maps, the commission recommends amendments to this chapter to carry out its purpose and intent.

(2) The exact language of the amendments provided by the commission is enacted as a statute approved by a two-thirds vote of each house of the Legislature and signed by the Governor.

(3) The bill containing the amendments provided by the commission is in print for 10 days before final passage by the Legislature.

(4) The amendments further the purposes of this act.

(5) The amendments may not be passed by the Legislature in a year ending in 0 or 1.

8252. Citizens Redistricting Commission Selection Process.

(a) (1) By January 1 in 2010, and in each year ending in the number zero thereafter, the State Auditor shall initiate an application process, open to all registered California voters in a manner that promotes a diverse and qualified applicant pool.

(2) The State Auditor shall remove from the applicant pool individuals with conflicts of interest including:

(A) Within the 10 years immediately preceding the date of application, neither the applicant, nor a member of his or her immediate family, may have done any of the following:

(i) Been appointed to, elected to, or have been a candidate for federal or state office.

(ii) Served as an officer, employee, or paid consultant of a political party or of the campaign committee of a candidate for elective federal or state office.

(iii) Served as an elected or appointed member of a political party central committee.

(iv) Been a registered federal, state, or local lobbyist.

(v) Served as paid congressional, legislative, or Board of Equalization staff.

(vi) Contributed two thousand dollars ($2,000) or more to any congressional, state, or local candidate for elective public office in any year, which shall be adjusted every 10 years by the cumulative change in the California Consumer Price Index, or its successor.

(B) Staff and consultants to, persons under a contract with, and any person with an immediate family relationship with the Governor, a Member of the Legislature, a member of Congress, or a member of the State Board of Equalization, are not eligible to serve as commission members. As used in this subdivision, a member of a person's "immediate family" is one with whom the person has a bona fide relationship established through blood or legal relation, including parents, children, siblings, and in-laws.

(b) The State Auditor shall establish an Applicant Review Panel, consisting of three qualified independent auditors, to screen applicants. The State Auditor shall randomly draw the names of three qualified independent auditors from a pool consisting of all auditors employed by the state and licensed by the California Board of Accountancy at the time of the drawing. The State Auditor shall draw until the names of three auditors have been drawn including one who is registered with the largest political party in California based on party registration, one who is registered with the second largest political party in California based on party registration, and one who is not registered with either of the two largest political parties in California. After the drawing, the State Auditor shall notify the three qualified independent auditors whose names have been drawn that they have been selected to serve on the panel. If any of the three qualified independent auditors decline to serve on the panel, the State Auditor shall resume the random drawing until three qualified independent auditors who meet the requirements of this subdivision have agreed to serve on the panel. A member of the panel shall be subject to the conflict of interest provisions set forth in paragraph (2) of subdivision (a).

(c) Having removed individuals with conflicts of interest from the applicant pool, the State Auditor shall no later than August 1 in 2010, and in each year ending in the number zero thereafter, publicize the names in the applicant pool and provide copies of their applications to the Applicant Review Panel.

(d) From the applicant pool, the Applicant Review Panel shall select 60 of the most qualified applicants, including 20 who are registered with the largest political party in California based on registration, 20 who are registered with the second largest political party in California based on registration, and 20 who are not registered with either of the two largest political parties in California based on registration. These subpools shall be created on the basis of relevant analytical skills, ability to be impartial, and appreciation for California's diverse demographics and geography. The members of the panel shall not communicate with any State Board of Equalization member, Senator, Assembly Member, congressional member, or their representatives, about any matter related to the nomination process or applicants prior to the presentation by the panel of the pool of recommended applicants to the Secretary of the Senate and the Chief Clerk of the Assembly.

(e) By October 1 in 2010, and in each year ending in the number zero thereafter, the Applicant Review Panel shall present its pool of recommended applicants to the Secretary of the Senate and the Chief Clerk of the Assembly. No later than November 15 in 2010, and in each year ending in the number zero thereafter, the President pro Tempore of the Senate, the Minority Floor Leader of the Senate, the Speaker of the Assembly, and the Minority Floor Leader of the Assembly may each strike up to two applicants from each subpool of 20 for a total of eight possible strikes per subpool. After all legislative leaders have exercised their strikes, the Secretary of the Senate and the Chief Clerk of the Assembly shall jointly present the pool of remaining names to the State Auditor.

(f) No later than November 20 in 2010, and in each year ending in the number zero thereafter, the State Auditor shall randomly draw eight names from the remaining pool of applicants as follows: three from the remaining subpool of applicants registered with the largest political party in California based on registration, three from the remaining subpool of applicants registered with the second largest political party in California based on registration, and two from the remaining subpool of applicants who are not registered with either of the two largest political parties in California based on registration. These eight individuals shall serve on the Citizens Redistricting Commission.

(g) No later than December 31 in 2010, and in each year ending in the number zero thereafter, the eight commissioners shall review the remaining names in the pool of applicants and appoint six applicants to the commission as follows: two from the remaining subpool of applicants registered with the largest political party in California based on registration, two from the remaining subpool of applicants registered with the second largest political party in California based on registration, and two from the remaining subpool of applicants who are not registered with either of the two largest political parties in California based on registration. The six appointees must be approved by at least five affirmative votes which must include at least two votes of commissioners registered from each of the two largest parties and one vote from a commissioner who is not affiliated with either of the two largest political parties in California. The six appointees shall be chosen to ensure the commission reflects this state's diversity, including, but not limited to, racial, ethnic, geographic, and gender diversity. However, it is not intended that formulas or specific ratios be applied for this purpose. Applicants shall also be chosen based on relevant analytical skills and ability to be impartial.

8252.5. Citizens Redistricting Commission Vacancy, Removal, Resignation, Absence.

(a) In the event of substantial neglect of duty, gross misconduct in office, or inability to discharge the duties of office, a member of the commission may be removed by the Governor with the concurrence of two-thirds of the Members of the Senate after having been served written notice and provided with an opportunity for a response. A finding of substantial neglect of duty or gross misconduct in office may result in referral to the Attorney General for criminal prosecution or the appropriate administrative agency for investigation.

(b) Any vacancy, whether created by removal, resignation, or absence, in the 14 commission positions shall be filled within the 30 days after the vacancy occurs, from the pool of applicants of the same voter registration category as the vacating nominee that was remaining as of November 20 in the year in which that pool was established. If none of those remaining applicants are available for service, the State Auditor shall fill the vacancy from a new pool created for the same voter registration category in accordance with Section 8252.

8253. Citizens Redistricting Commission Miscellaneous Provisions.

(a) The activities of the Citizens Redistricting Commission are subject to all of the following:

(1) The commission shall comply with the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2), or its successor. The commission shall provide not less than 14 days' public notice for each meeting, except that meetings held in September in the year ending in the number one may be held with three days' notice.

(2) The records of the commission pertaining to redistricting and all data considered by the commission are public records that will be posted in a manner that ensures immediate and widespread public access.

(3) Commission members and staff may not communicate with or receive communications about redistricting matters from anyone outside of a public hearing. This paragraph does not prohibit communication between commission members, staff, legal counsel, and consultants retained by the commission that is otherwise permitted by the Bagley-Keene Open Meeting Act or its successor outside of a public hearing.

(4) The commission shall select by the voting process prescribed in paragraph (5) of subdivision (c) of Section 2 of Article XXI of the California Constitution one of their members to serve as the chair and one to serve as vice chair. The chair and vice chair shall not be of the same party.

(5) The commission shall hire commission staff, legal counsel, and consultants as needed. The commission shall establish clear criteria for the hiring and removal of these individuals, communication protocols, and a code of conduct. The commission shall apply the conflicts of interest listed in paragraph (2) of subdivision (a) of Section 8252 to the hiring of staff to the extent applicable. The Secretary of State shall provide support functions to the commission until its staff and office are fully functional. Any individual employed by the commission shall be exempt from the civil service requirements of Article VII of the California Constitution. The commission shall require that at least one of the legal counsel hired by the commission has demonstrated extensive experience and expertise in implementation and enforcement of the federal Voting Rights Act of 1965 (42 U.S.C. Sec. 1971 and following). The commission shall make hiring, removal, or contracting decisions on staff, legal counsel, and consultants by nine or more affirmative votes including at least three votes of members registered from each of the two largest parties and three votes from members who are not registered with either of the two largest political parties in California.

(6) Notwithstanding any other provision of law, no employer shall discharge, threaten to discharge, intimidate, coerce, or retaliate against any employee by reason of such employee's attendance or scheduled attendance at any meeting

of the commission.

(7) The commission shall establish and implement an open hearing process for public input and deliberation that shall be subject to public notice and promoted through a thorough outreach program to solicit broad public participation in the redistricting public review process. The hearing process shall include hearings to receive public input before the commission draws any maps and hearings following the drawing and display of any commission maps. In addition, hearings shall be supplemented with other activities as appropriate to further increase opportunities for the public to observe and participate in the review process. The commission shall display the maps for public comment in a manner designed to achieve the widest public access reasonably possible. Public comment shall be taken for at least 14 days from the date of public display of any map.

(b) The Legislature shall take all steps necessary to ensure that a complete and accurate computerized database is available for redistricting, and that procedures are in place to provide the public ready access to redistricting data and computer software for drawing maps. Upon the commission's formation and until its dissolution, the Legislature shall coordinate these efforts with the commission.

8253.5. Citizens Redistricting Commission Compensation.

Members of the commission shall be compensated at the rate of three hundred dollars ($300) for each day the member is engaged in commission business. For each succeeding commission, the rate of compensation shall be adjusted in each year ending in nine by the cumulative change in the California Consumer Price Index, or its successor. Members of the panel and the commission are eligible for reimbursement of personal expenses incurred in connection with the duties performed pursuant to this act. A member's residence is deemed to be the member's post of duty for purposes of reimbursement of expenses.

8253.6. Citizens Redistricting Commission Budget, Fiscal Oversight.

(a) In 2009, and in each year ending in nine thereafter, the Governor shall include in the Governor's Budget submitted to the Legislature pursuant to Section 12 of Article IV of the California Constitution amounts of funding for the State Auditor, the Citizens Redistricting Commission, and the Secretary of State that are sufficient to meet the estimated expenses of each of those officers or entities in implementing the redistricting process required by this act for a three-year period, including, but not limited to, adequate funding for a statewide outreach program to solicit broad public participation in the redistricting process. The Governor shall also make adequate office space available for the operation of the commission. The Legislature shall make the necessary appropriation in the Budget Act, and the appropriation shall be available during the entire three-year period. The appropriation made shall be equal to the greater of three million dollars ($3,000,000), or the amount expended pursuant to this subdivision in the immediately proceeding redistricting process, as each amount is adjusted by the cumulative change in the California Consumer Price Index, or its successor, since the date of the immediately preceding appropriation made pursuant to this subdivision. The Legislature may make additional appropriations in any year in which it determines that the commission requires additional funding in order to fulfill its duties.

(b) The commission, with fiscal oversight from the Department of Finance or its successor, shall have procurement and contracting authority and may hire staff and consultants, exempt from the civil service requirements of Article VII of the California Constitution, for the purposes of this act, including legal representation.

SEC. 5. Conflicting Ballot Propositions.

(a) In the event that this measure and another measure(s) relating to the redistricting of Senate, Assembly, congressional, or Board of Equalization districts are approved by a majority of voters at the same election, and this measure receives a greater number of affirmative votes than any other such measure(s), this measure shall control in its entirety and the other measure(s) shall be rendered void and without any legal effect. If this measure is approved by a majority of the voters but does not receive a greater number of affirmative votes than the other measure(s), this measure shall take effect to the extent permitted by law.

(b) If any provisions of this measure are superseded by the provisions of any other conflicting measure approved by the voters and receiving a greater number of affirmative votes at the same election, and the conflicting measure is subsequently held to be invalid, the provisions of this measure shall be self-executing and given full force of law.

SEC. 6. Severability.

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

PROPOSITION 12

This law proposed by Senate Bill 1572 of the 2007–2008 Regular Session (Chapter 122, Statutes of 2008) is submitted to the people in accordance with the provisions of Article XVI of the California Constitution.

This proposed law adds sections to the Military and Veterans Code; therefore, new provisions proposed to be added are printed in *italic type* to indicate that they are new.

PROPOSED LAW

SECTION 1. Article 5x (commencing with Section 998.400) is added to Chapter 6 of Division 4 of the Military and Veterans Code, to read:

Article 5x. Veterans' Bond Act of 2008

998.400. This article may be cited as the Veterans' Bond Act of 2008.

998.401. (a) The State General Obligation Bond Law (Chapter 4 (commencing with Section 16720) of Part 3 of Division 4 of Title 2 of the Government Code), except as otherwise provided herein, is adopted for the purpose of the issuance, sale, and repayment of, and otherwise providing with respect to, the bonds authorized to be issued by this article, and the provisions of that law are included in this article as though set out in full in this article. All references in this article to "herein" refer both to this article and that law.

(b) For purposes of the State General Obligation Bond Law, the Department of Veterans Affairs is designated the board.

998.402. As used herein, the following words have the following meanings:

(a) "Board" means the Department of Veterans Affairs.

(b) "Bond" means veterans' bond, a state general obligation bond, issued pursuant to this article adopting the provisions of the State General Obligation Bond Law.

(c) "Bond act" means this article authorizing the issuance of state general obligation bonds and adopting the State General Obligation Bond Law by reference.

(d) "Committee" means the Veterans' Finance Committee of 1943, established by Section 991.

(e) "Fund" means the Veterans' Farm and Home Building Fund of 1943, established by Section 988.

998.403. For the purpose of creating a fund to provide farm and home aid for veterans in accordance with the Veterans' Farm and Home Purchase Act of 1974 (Article 3.1 (commencing with Section 987.50)), and of all acts amendatory thereof and supplemental thereto, the committee may create a debt or debts, liability or liabilities, of the State of California, in the aggregate amount of not more than nine hundred million dollars ($900,000,000), exclusive of refunding bonds, in the manner provided herein.

998.404. (a) All bonds authorized by this article, when duly sold and delivered as provided herein, constitute valid and legally binding general obligations of the State of California, and the full faith and credit of the State of California is hereby pledged for the punctual payment of both principal and interest thereof.

(b) There shall be collected annually, in the same manner and at the same time as other state revenue is collected, a sum of money, in addition to the ordinary revenues of the state, sufficient to pay the principal of, and interest on, these bonds as provided herein, and all officers required by law to perform any duty in regard to the collection of state revenues shall collect this additional sum.

(c) On the dates on which funds are to be remitted pursuant to Section 16676 of the Government Code for the payment of debt service on the bonds in each fiscal year, there shall be transferred to the General Fund to pay the debt service all of the money in the fund, not in excess of the amount of debt service then due and payable. If the money transferred on the remittance dates is less than debt service then due and payable, the balance remaining unpaid shall be transferred to the General Fund out of the fund as soon as it shall become available, together with interest thereon from the remittance date until paid, at the same rate of interest as borne by the bonds, compounded semiannually. Notwithstanding any other provision of law to the contrary, this subdivision shall apply to all veterans farm and home purchase bond acts pursuant to this