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SUPERIOR COURT OF CALIFORNIA

COUNTY OF SAN BERNARDINO

JIM BOYDSTON; STEVEN FRAKER; DANIEL HOWLE; JOSEPHINE PIARULLI; JEFF MARSTON; LINDSAY VUREK; LINDA CARPENTER SEXAUER and INDEPENDENT VOTER PROJECT, a non-profit corporation,

Plaintiffs and Petitioners,

v.

ALEX PADILLA, in his official capacity as California Secretary of State; STATE OF CALIFORNIA; and DOES 1 through 1,000,

Defendants and Respondents.

Case No: CIVDS1921480

PLAINTIFFS AND PETITIONERS' OPENING BRIEF IN SUPPORT OF MOTION FOR PRELIMINARY INJUNCTION; DECLARATIONS CORY J. BRIGGS, DANIEL HOWLE, SVETLANNA CHYETTE; SUPPORTING EXHIBITS

Action Filed: July 23, 2019
Department: S-32 (Hon. Wilfred J. Schneider, Jr.)

Hearing Date: November 19, 2019
Hearing Time: 8:30 a.m.

Plaintiffs and Petitioners Jim Boydston, Steven Fraker, Daniel Howle, Josephine Piarulli, Jeff Marston, Lindsay Vurek, Linda Carpenter Sexauer, and Independent Voter Project (collectively, "Petitioners") respectfully submit this opening brief in support of its motion for a preliminary injunction against Defendants Alex Padilla and the State of California (collectively, "Defendants").

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I. INTRODUCTION

Petitioners filed this lawsuit because Defendants are disenfranchising millions of no-party-preference ("NPP") voters who want to vote for a presidential candidate in the primary election but cannot do so without being forced to associate with a political party.[1] For years Defendants have required NPP voters to request a ballot from a recognized political party as a condition to voting in that primary. If the voter does not affiliate, he or she cannot vote in the presidential primary – period.

The provisional relief that Petitioners seek, in what is essentially a voting-rights lawsuit, is simple: Defendants must give NPP voters a ballot that includes the names of all presidential candidates who have qualified for the primary. Petitioners are not asking the Court to require political parties themselves to count the NPP voters' votes; each party has the right to establish its own rules for recognizing or ignoring the votes cast for their candidates. Petitioners are asking the Court to give NPP voters the opportunity to cast their votes for any of the candidates in the presidential primary, free from the state's coercion of having to declare an association with any political party as a prerequisite to voting for a candidate in the primary.

Defendants will surely argue that Petitioners are asking the Court to compel them to infringe on the rights of political parties. Because Petitioners want nothing more than to get the State out of the business of compelling political alliances as a condition to exercising the right of franchise in the presidential primary, and because the provisional relief that Petitioners seek would in no way change how private political parties select their nominees for president, the Court should grant this motion in full.

II. BACKGROUND

Acting under the color of law, Defendants are openly violating two fundamental, inalienable rights of citizenship held by Petitioners and millions of other Californians: (1) the right to associate freely, or to maintain no association whatsoever, with political parties; and (2) the right to vote. These rights are securely and unambiguously codified by the U.S. Constitution, the California Constitution, California election law, and current U.S. Supreme Court precedent.

[1] At least three of the Petitioners are NPP voters. *See* Compl, ¶ 29.

Without the Court's intervention, Defendants will once again administer a presidential primary scheme – this time in March 2020 – that requires NPP voters to associate with a private political party as a condition of participating in the taxpayer-funded, publicly administered primary election.

Defendants' current practice for NPP voters in the presidential primary is to require that they request a ballot from one of the recognized political parties. This practice presents a major constitutional problem: NPP voters are forced to "choose" a single political party with which to associate for purposes of voting in the presidential primary; they are then given a ballot with that party's presidential nominees.[2]

In 2000, the United States Supreme Court held in favor of the Democratic Party that Defendants' former open *blanket* primary system unconstitutionally forced private political parties to associate with non-members. *California Democratic Party v. Jones*, 530 U.S. 567, 574-575 (2000) ("*Jones*"). For 20 years, Defendants' response to *Jones*'s holding has been to force voters to associate with a private political party as a condition of participating in the presidential primary process. This lawsuit thus challenges the constitutional violation created by Defendants' response to *Jones*: ***forcing non-members to associate with private political parties***. As the High Court observed, "a corollary of the right to associate is the right ***not*** to associate." *Id.* at 574 (emphasis added).

The solution to these grave constitutional violations is simple: give NPP voters ***their own, unaffiliated*** ballot listing all presidential-primary candidates. Defendants can then tally the votes, break them down by party (as is already done), and publish the results (as is also already done). The political parties will be free to count or ignore the NPP votes.

Despite repeated notice of the problem and an easy solution, Defendant have failed to correct the problem. *See* Declaration of Daniel Howle ¶¶ 2-7. The consequences of their inaction have resulted and will continue to result in the suppression of NPP voters' votes on a massive scale, compromising the integrity of every state and municipal election conducted alongside the presidential primary.

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[2] This isn't the only constitutional problem. For example the NPP voters have also had the number of potential nominees for whom they could vote artificially narrowed because presidential candidates in one party are usually not included on the primary ballot for other parties. This motion is limited to the forced-association violation.

Immediate judicial intervention is therefore necessary to prevent great and irreparable injury.

III. ARGUMENT AND ANALYSIS

This Court may grant provisional injunctive relief in order to prevent "great irreparable injury." Code Civ. Proc. § 526(a)(2). "Although preliminary injunctions are generally designed to preserve the status quo pending a determination on the merits of the action, they are not so limited. A court also has the power to issue provisional injunctive relief that mandates an affirmative act that changes the status quo, but should do so only in those extreme cases where the right thereto is clearly established." *Integrated Dynamic Solutions, Inc. v. Vitavet Labs, Inc.*, 6 Cal. App. 5th 1178, 1183-1184 (2016) (internal quotation marks and citations omitted). While a mandatory preliminary injunction usually may not be granted to "prevent the execution of a public statute by officers of the law for the public benefit," the court may enjoin enforcement of a statute that is facially unconstitutional or is applied unconstitutionally. *Conover v. Hall*, 11 Cal. 3d 842, 849-850 (1974) (discussing exception to Code of Civil Procedure section 526(b)(4)).

In order to obtain a preliminary injunction, Petitioners must show that (1) there is a reasonable likelihood of prevailing on the merits at trial and (2) the harm they will suffer if there is no preliminary injunction is greater than the harm that the Defendants will experience if the Court issues the injunction. *Integrated Dynamic Solutions, supra*, 6 Cal. App. 5th at 1183; *see also* Code Civ. Proc. § 527(a). The Court must weigh these two considerations against one another – ***the greater the showing on one, the lesser the required showing on the other***. *Butt v. State of Calif.*, 4 Cal. 4th 668, 677-678 (1992). Plaintiffs need not show that it will necessarily prevail on the merits; all that is required is a showing of a reasonable probability of success. *See Baypoint Mortgage Corp. v. Crest Premium Real Estate Investments Retirement Trust*, 168 Cal. App. 3d 818, 824 (1985) (specifying the standard for preliminary injunction).

A. Petitioners Are Likely to Succeed on the Merits

Defendants make no bones about violating the rights of NPP voters. According to the California Secretary of State's own election and voter-information website:

> Voters who registered to vote without stating a political party preference are known as No Party Preference (NPP) voters...

> For presidential primary elections: NPP voters will receive a "non-partisan" ballot that does not include presidential candidates. A nonpartisan ballot contains only the names of candidates for voter-nominated offices and local nonpartisan offices and measures. However, NPP voters may vote in a political party's partisan election if the political party, by party rule duly noticed to the Secretary of State, authorizes NPP voters to vote in the next presidential primary election. An NPP voter may request the ballot of one of the political parties, if any, that authorizes NPP voters to vote in the presidential primary election.

Ex. E; Declaration of Cory J. Briggs, ¶ 6.

In 2016, NPP voter registration going into the June 7 primary was over 4.1 million. Ex. F; Briggs Decl., ¶ 7. In 2020, that number will be over 5.6 million. Ex. B; Briggs Decl., ¶ 3. An untold number of voters have begrudgingly registered with a private political party only so they can cast a ballot for the presidential candidate of their choice. In previous elections, the NPP voters have been "allowed" to request a ballot from the Democratic Party, the American Independent Party, or the Libertarian Party. This is forced association from voters how have made it clear that they did not want to associate with this parties.

What Defendants do not tell NPP voters who will be forced to choose a party's ballot in order to vote in the presidential primary is that their information will be provided to the political party and that their candidate options will be limited.

If NPP mail-in voters fail to affirmatively request a crossover ballot by mail, they only receive a nonpartisan ballot which prevents them from voting for President. As a result, the return rate for mailed-in presidential ballots from NPP voters has been extraordinarily low, despite polls showing that most NPP voters want to participate. Ex. J; Briggs Decl., ¶ 11. While the number of voters who would have cast a ballot for a presidential candidate in the 2016 primary cannot be measured precisely, it is certainly substantial.

For poll voters, the conditions aren't any better. Poll workers are not even required to inform NPP voters of the availability of cross-over ballots. Ex. M; Briggs Decl., ¶ 14 (the Secretary of State contended in a 2016 brief that poll workers have no duty to inform NPP voters of the availability of crossover ballots.).

This additional burden on NPP voters and unfettered discretion given to poll workers is inherently unreasonable, discriminatory, and results in lower NPP voter participation.

1. California's Presidential Primary Scheme Violates Petitioners' Fundamental Rights

The First Amendment implicitly protects the right to associate. *See Jones, supra*, 530 U.S. at 574-575; *see also* U.S. Const., amends. I, XIV; Cal. Const., art. I, §§ 2 & 7. "It is beyond debate that freedom to engage in association for the advancement of beliefs and ideas is inseparable aspect of the 'liberty' assured by the Due Process Clause of the Fourteenth Amendment, which embraces freedom of speech." *Tashijian v. Republican Party of Conn.*, 479 U.S. 208, 214 (1986) [citations omitted]. "'The right to associate with the political party of one's choice is an integral part of this basic constitutional freedom.' " *Id.* (*quoting Kusper v. Pontikes*, 414 U.S. 51, 57 (1973)). The corollary to the right to associate is the right ***not*** to associate. *Jones*, 530 U.S. at 574; *see also Janus v. Am. Fed'n of State, Cty., & Mun. Employees, Council 31*, 138 S. Ct. 2448, 2463 (2018) ("The right to eschew association for expressive purposes is likewise protected"); *Pacific Gas & Elec. Co. v. Public Util. Comm'n of Cal.*, 475 U.S. 1, 9 (1986) ("forced associations that burden protected speech are impermissible"); *Roberts v. United States Jaycees*, 468 U.S. 609, 623 (1984) ("Freedom of association ... plainly presupposes a freedom not to associate.").

Fundamental rights extend to all important stages of the election process. "A State's broad power to regulate the time, place and manner of elections 'does not extinguish the State's responsibility to observe the limits established by the First Amendment rights of the State citizens.'" *Eu v. San Francisco Cty. Democratic Central Comm.*, 489 U.S. 214, 222 (1989) (quoting *Tashijian*, 497 U.S. at 217). When one group has access to greater voting strength, the "one person, one vote" principle is violated. *Moore v. Ogilvie*, 394 U.S. 814, 819 (1969). Without equality of the right to vote at all integral stages of the election process, there can be no meaningful right to vote at all. *See Gray v. Sanders*, 372 U.S. 368, 380 (1963). As the United States Supreme Court held 75 years ago, because the primary election is related to the general election, and is operated under state authority and subject

to constitutional controls, the right to vote – regardless of race – is secured by the United States Constitution. *Smith v. Allwright*, 321 U.S. 649, 663-64 (1944) (holding that black voters have right to participate in primary elections because primary election is important stage of public-election process).

Here, Defendant is preventing voters opposed to association with a political party from participating in a publicly administered, taxpayer-funded, important stage of the presidential-election process. Forcing NPP voters to associate with a political party in order to cast their primary vote for a presidential candidate is no remedy, and instead is a clear violation of their liberty and freedom to not associate.

As Justice Alito foresaw in *Janus*, forcing residents to support the platform of a major political party as a condition of residency would surely be a violation of the First Amendment. *See Janus*, 138 S. Ct. at 2463-2464. That is precisely what is happening in California today. However, the right at stake is not residency but the fundamental right to vote and participate in our democratic process. At the moment, if NPP voters want to express their preference for a presidential candidate in a primary election, Defendants mandate that these voters associate with a private political party with whom they may have profound disagreement or distaste – or else face a blank presidential-primary ballot.[3]

Additionally, California declares the right to privacy is an inalienable right (Cal. Const., art. I § 1) and that "[v]oting shall be secret." Cal. Const., art. II § 4. State action that "[c]ompel[s] disclosure of membership in an organization engaged in advocacy of particular beliefs" operates as a restraint on the freedom of association. *NAACP v. State of Alabama ex rel. Patterson*, 357 U.S. 449, 462, 466 (1958) (Association members had the right to pursue their lawful private interest privately and to associate freely.) Therefore, California's law requiring public association with a political party as a pre-condition to participating in the State's public presidential primary election violates NPP voters' constitutionally protected privacy and voting rights.

California's presidential-primary scheme burdens the right to freely associate or not associate with political parties. Such a burden can only be upheld if the "character and magnitude of the asserted

[3] Non-partisan ballots currently do not allow "No Party Preference" ("NPP") voters to cast a vote for any presidential candidate.

injury" outweighs "the precise interest put forward by the State as justifications for the burden imposed" by the rule. *Burdick v. Takushi*, 504 U.S. 428, 434 (1992).

2. Strict Scrutiny Applies because the Character and Magnitude of the Injury Is Severe and Irreparable

This case demands strict scrutiny because the injury to the fundamental rights of NPP voters is severe and cannot be repaired after the election is conducted.

The right to vote and participate in the political process is fundamental. *Id.* at 433. However, not every law that burdens the right to vote must be subjected to strict scrutiny. *Id.* "Regulations imposing severe burdens on a plaintiffs' right must be narrowly tailored and advance a compelling state interest. Lesser burdens, however, trigger less exacting review." *Ruben v. Padilla*, 233 Cal. App. 4th 1128, 1140 (2015) (citing *Timmons v. Twin Cities Area New Party*, 520 U.S. 351, 358 (1997)). "A court considering a challenge to a state election law must weigh the character and magnitude of the asserted injury to the rights protected by the First and Fourteenth Amendments that the plaintiff seeks to vindicate against the precise interest put forward by the State as justifications for the burden imposed by its rule, taking into consideration the extent to which those interest make it necessary to burden the plaintiff's rights." *Burdick*, 504 U.S. at 434 (internal quotation marks and citations omitted); *see also Crawford v. Marion County Election Bd.* (2008) 553 U.S. 181, 190-191 (confirming the balancing test for state voting regulations). Even when voters are only modestly burdened by State action, the State's "precise interests" must be able to justify the regulation, which must in turn be both "reasonable" and "nondiscriminatory." *Burdick*, 504 U.S. at 434.

Here, Defendants' approach is neither reasonable nor non-discriminatory because they have created two classes of voters wanting to participate in presidential primaries: (1) voters who have freely associated with a political party, and (2) voters opposed to associating with a political party but who are compelled to do so in order to vote for even a single presidential-primary candidate. For the first set of voters, participation in the presidential primary is easy. But for voters who oppose having to associate with a political party – that is, NPP voters – they are ***completely barred*** from voting for a

presidential candidate unless they "choose" a party with a presidential candidate on the party's ballot. Further, NPP voters who choose to vote in a party's presidential primary must jump through extra, and often confusing, hoops or they will not receive a ballot with presidential candidates. This particularly affects NPP mail-in voters, where the return rate for presidential ballots has been extraordinarily low, despite polls showing that most NPP voters want to participate. *See* Ex. J; Briggs Decl., ¶ 11.

When the law applies differently to pre-existing classes of similarly situated citizens seeking to exercise their fundamental rights – such as NPP voters, or voters who would register as NPP but for the compulsion to affiliate so they can vote in the presidential primary – the distinction will be subjected to strict scrutiny. *See, e.g., Wexler v. Anderson*, 452 F.3d 1226, 1231-1232 (11th Cir. 2006) (indicating heightened scrutiny if plaintiffs had alleged that voters in touchscreen counties were less likely to cast effective vote than voters in optical-scan counties (citing *Dunn v. Blumstein*, 405 U.S. 330, 336 (1972) ("[A] citizen has a constitutionally protected right to participate in elections on an equal basis with other citizens in the jurisdiction.")).

The burden of California's presidential-primary scheme on NPP voters is severe and irreparable. "The loss of First Amendment freedoms, for even minimal periods of time, unquestionably constitutes irreparable injury." *Elrod v. Burns*, 427 U.S. 347, 373 (1976) As discussed above, the current scheme impermissibly burdens and infringes on NPP voters' freedom to (not) associate under the First and Fourteenth Amendments by requiring them to associate with a "qualified"[4] political party as a pre-condition to cast a vote for a presidential candidate in a primary election. The effect of such a rule has and will continue to be the widespread disenfranchisement of those who seek to exercise their First Amendment right not to associate.

There's no question that being denied the right to vote cannot be regained after-the-fact through any process, political or legal; it is lost forever. Because at least 5.6 million Californians stand to have their fundamental rights violated in the upcoming presidential primary, the looming injury is severe, irreparable, and demands strict scrutiny.

[4] Parties are qualified by the Secretary of State. Ex. G; Briggs Decl., ¶ 8.

i. California's Presidential Primary Scheme Fails Strict Scrutiny

To satisfy strict scrutiny, California's presidential-primary scheme must be narrowly tailored to serve a compelling governmental interest. *See Ruben*, 233 Cal. App. 4th at 1140. "Courts will strike down state election laws as severe speech restrictions only when they significantly impair access to the ballot, stifle core political speech, or dictate electoral outcomes." *Rawls v. Zamora*, 107 Cal. App. 4th 1110, 1116 (2003).

California's current presidential-primary scheme is not narrowly tailored. There are numerous ways California can conduct its presidential primary to protect the rights of political parties AND voters. Instead, California's scheme unnecessarily ignores the First Amendment rights of voters and holds them subservient to the First Amendment rights of the political parties.

In *Jones*, the High Court found California's then "blanket" primary system – which allowed any voter to vote for any candidate regardless of the political affiliation (or lack thereof) of either – to be an unconstitutional infringement on the *political parties'* First Amendment right to exclude voters from their presidential primary elections that were not registered to the party. *Jones,* 530 U.S. at 570, 574-575. The ability and right of the political parties to limit, control, or prevent so-called cross-over voters[5] and party raiding[6] were among the reasons the Court cited in support of its opinion. *See id.* at 577-578.

In response to the *Jones* ruling, California amended the relevant portion of the Elections Code. It now provides that "a person shall not be entitled to vote the ballot of a political party at the primary election for President of the United States or for a party committee unless he or she has disclosed the name of the party that he or she prefers or unless he or she has declined to disclose a party preference and the political party, by party rule duly noticed to the Secretary of State, authorizes a person who has declined to disclose a party preference to vote the ballot of that political party." Elec. Code §

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[5] "The Ninth Circuit defined a cross-over voter as one 'who votes for a candidate of a party in which the voter is not registered. Thus, the cross-over voter could be an independent voter or one who is registered to a competing political party.'" *Jones, supra*, 530 U.S. at 579 n. 9.

[6] Party raiding is "a process in which dedicated members of one party formally switch to another party to alter the outcome of that party's primary...." *Jones, supra*, 530 U.S. at 572.

2151(b)(1). Meanwhile, Defendants do not provide NPP voters with an alternative ballot for the primary. Most simply, California is now forcing voters to engage in the very conduct – cross-over voting, benign or otherwise – that *Jones* sought to minimize as a pre-condition to casting that vote when there is no lawful reason for imposing the restriction.

Importantly, there is simple, easy way to administer a presidential-primary election that protects both political parties' AND individual voters' constitutional rights. Voters choosing to exercise their right not to associate with a private political party, for example, could be given a non-partisan ballot that lists all qualified presidential candidates. The private political parties would then have the option, but not the obligation, to count the votes cast by NPP voters. Some of the Petitioners have proposed this solutions to Defendants, but the proposal has been ignored. *See* Howle Decl., ¶¶ 3-7.

While the amended Elections Code protects the associational rights of political parties, it does so by trampling the associational rights of NPP voters. This country decided long ago – and correctly – that voters can and should choose their representatives, not the other way around. Since there is an easy way to satisfy the holding in *Jones* without infringing on NPP voters' freedom of political association, California's presidential-primary scheme is not narrowly tailored.

ii. California's Presidential-Primary Scheme Does Not Serve a Compelling State Interest

The process by which California's political parties select their presidential nominee has two distinct components: one is private process; the other, public. No compelling state interest justifies Defendants' discrimination toward NPP voters during the public process because ***all presidential-primary votes – even those cast by party-affiliated voters – are non-binding, advisory votes at best.***

The private process is controlled by the rules and bylaws of private political parties. Their nominees are not selected by the public-election process, but by their own private nominating process. *See, e.g.,* Elec. Code § 6020(b) (Democratic presidential nominee is selected at national convention); § 6480(b) (noting that vote cast in Republican Party presidential primary is non-binding preference

vote); § 6461(c) (noting that delegate is not bound by prior pledge to support a particular Republican presidential nominee at national convention); §§ 6620(a) & (d) (noting that vote cast in American Independent Party presidential primary is non-binding preference vote and is advisory only); § 6851 (noting that Green Party presidential primary is non-binding preference vote); § 6821(a) (noting that Peace & Freedom Party presidential primary is non-binding preference vote); *see also Democratic Party of U.S. v. Wisconsin ex rel. La Follette*, 450 U.S. 107 (1981) (holding that state could not bind its Democratic delegation to result of open primary).

The public-election component is the statewide primary election. Acting through the separate counties, Defendants provide presidential-primary ballots, administer the election, and undertake the task of counting the votes. *See* Elec. Code § 13102. This reflects the State's legitimate interest in protecting the integrity and efficiency of the electoral process. *See Rawls,* 107 Cal. App. 4th at 1116.

Put simply, California's presidential-primary election has no legally binding effect on the qualified parties (or their delegates) in determining the parties' nominees, even when those votes are cast by voters who ***are*** members of the political party. The election is simply a public event at which voters express their ***preferences*** for a particular presidential candidate. What the political parties do with those results is their own business.

Unfortunately, California's current system permits only those who associate with a qualified political party to participate in the public-election process.[7] Further, California allows private political parties to determine who can and who cannot vote, for the exclusive benefit of the parties themselves. Even worse, the scheme has resulted and will continue to result in widespread voter confusion and suppression without advancing a single state interest and in fact severely undermines the state's legitimate interest in electoral integrity and maximum voter participation. *See* Exs. J & L; Briggs Decl., ¶¶ 11 & 13.

[7] In 2016, three political parties allowed NPP voters to request a crossover ballot: Democratic, Libertarian, and American Independent. The other three qualified political parties did not allow non-members to request a crossover ballot: Republican, Green, and Peace and Freedom. Ex. I; Briggs Decl., ¶ 10. Whether to allow or prevent access to crossover ballots is governed by party rules and is subject to change at any time.

iii. California's Presidential Primary Scheme Actually Frustrates a Compelling State Interest in Voter Turnout

The legislative history shows that voters have unambiguously and repeatedly demanded a more open, inclusive, accessible primary electoral process.[8] Defendant Padilla has himself said, "[i]f there's one thing that every American should agree with, it's this: Voting is the fundamental right in our democracy, the one that makes all others possible." Ex. H; Briggs Decl., ¶ 9. Yet Defendants promulgate a presidential-primary scheme that can only have only one effect: decreased voter participation.

The Secretary of State's own data show that primary elections have lower voter participation than general elections and non-presidential primaries have lower turn out than presidential primaries. *See* Ex. A; Briggs Decl., ¶ 2. There has been a steady increase in NPP registrations over the last 10 years, now more than 5.6 million voters. *See* Ex. B; Briggs Decl., ¶ 3. NPP voters, however, are still interested in participating in California's primary election. Ex. J; Briggs Decl., ¶ 11 (88% of survey respondents identified as NPP/Independent were interested in voting in the 2016 primary election). Whatever the reason for the exodus, the effect on California's presidential-primary scheme and this trend away from formal political affiliation is the disenfranchisement of those voters who refuse to openly associate with a party and the suppression of their vote in both the presidential-primary race and other "down ticket" races.

By denying Petitioners and other NPP voters a ballot that allows them to cast their preference for a presidential candidate in a primary, they are essentially being subjected to a "non-presidential primary" every time they go to the polls – all but guaranteeing low turn-out for the "down ticket" races. Unsurprisingly, the lack of a "top of the ticket" presidential candidate to attract unaffiliated

[8] In 1972, the voters passed Proposition 4 amending the state constitution to add the requirement that the Legislature provide for an open presidential primary. *See* Ex. C; Briggs Decl., ¶ 4. In 2010, the voters passed Proposition 14 amending the state constitution to create the "top-two" system where voters received ballots that included all candidates for congressional or state elective office, regardless of political affiliation, and the two candidates with the highest number of votes advanced to the general election. *See* Ex. D; Briggs Decl., ¶ 5. Both of these constitutional amendments sought greater voter participation in primary elections as a primary goal and the voters passed both propositions. While Proposition 14 did not include the office of the President of the U.S. from its scope, the underlying intent to open the primary process to more voters and to provide more choice was the same.

voters to the polls reduces participation in the races further down the ballot. In the context of today's hyper-partisanship and California's "top two" system, whereby the top two vote-getters in congressional and state offices (regardless of party) advance to the general election, suppression of up to 28%[9] of registered voters in 2020 will have a devastating effect on our democracy.

Voter suppression on a massive scale frustrates the state interest in having open, inclusive, and accessible primary election.

iv. California's Presidential Primary Scheme Also Fails Less Exacting Review

Even if the burden on Petitioners were not characterized as severe and were instead subjected to less exacting review, California's scheme would still fail. Restrictions viewed as less than severe will be upheld by the courts where they are "generally applicable, even-handed, politically neutral, and . . . protect the reliability and integrity of the election process." *Rawls,* 107 Cal. App. 4th at 1116.

Petitioners have the constitutional right of freedom to associate or not to associate. Defendants, however, are conditioning every individual's right to participate in our public election process on an affirmative association with a private political party. *See* Elec. Code § 2151.

The law is not generally applicable, even-handed, or politically neutral because it particularly affects only those voters opposed to association with a political party. The law does not protect the reliability and integrity of the election process because it has and will continue to result in widespread voter confusion and suppression.

B. Petitioners' Harm Is Caused by California's Current Presidential-Primary Scheme

Petitioners and other NPP voters have been harmed and will continue to be harmed if the Secretary of State is permitted to continue administering the presidential-primary system in its current form. "The Secretary of State is the chief elections officer of the state...." Elec. Code § 10(a); Gov't Code § 12172.5(a). As such, he is required, *inter alia*, to make reasonable efforts to promote voter

[9] *See* Ex. B; Briggs Decl., ¶ 3.

registration and encourage eligible voters to vote. Elec. Code § 10(b). He is also required to "assure the uniform application and administration of state election laws." Gov't Code § 12172.5(d).

The current system fails to promote voter registration, does not allow eligible voters to vote for the candidate of their choice in the primary (if they can vote at all), and is not a uniform application or administration of state election laws. The current system violates NPP voters' constitutional rights, violates U.S. Supreme Court precedent, suppresses voter turn-out, and disenfranchises voters who seek to exercise their First Amendment rights to not associate with a political party. As a natural result of these failures and violations, Petitioners and at least 4.7 million NPP voters were disenfranchised in 2016 simply because they exercised their right not to associate with a political party. If left uncorrected, Petitioners and 5.6 million similarly situated NPP voters will be disenfranchised again in 2020.

C. Petitioners Have and Will Continue to Suffer Irreparable Harm

Petitioners have and will continue to suffer irreparable harm if this preliminary injunction is not granted. "The loss of First Amendment freedoms, for even minimal periods of time, unquestionably constitutes irreparable injury." *Elrod*, 427 U.S. at 373; *accord Christian Legal Soc'y v. Walker*, 453 F.3d 853, 859 (7th Cir. 2006). But Petitioners need not wait until they have suffered actual harm before applying for an injunction; they may seek injunctive relief against threatened infringement of their rights. *Maria P. v.* Riles, 43 Cal. 3d 1281, 1292 (1987); *Costa Mesa City Employees' Ass'n v. City of Costa Mesa*, 209 Cal. App. 4th 298, 305-306 (2012).

In 2016, Petitioners and other NPP voters were denied their constitutional rights to not associate and to privacy of association when they were faced with declaring allegiance to a political party (and thereby disclosing their ballot choice) as a condition to casting their vote for the presidential candidate of their choice. Without the provisional injunctive relief requested herein, these voters will be forced to suffer the same harm again in March 2020.

D. The Balance of Equities and the Public Interest Are in Petitioners' Favor

The Court has the discretionary power over granting a preliminary injunction but must "exercise its discretion in favor of the party most likely to be injured." *Robbins v. Superior Ct.*, 38 Cal.

3d 199, 205 (1985). Where Petitioners and other NPP voters stand to suffer great harm if the provisional relief is not granted, and the Defendants will suffer little harm if it is, the court should grant the preliminary injunction. *Id.*

The requested provisional relief is in the public interest because it will benefit all members of the public, particularly the more than 5.6 million currently registered NPP voters who face having to forfeit their constitutional rights in order to cast a presidential-primary vote. Failure to provide relief will result, once again, in voter confusion and suppression on a massive scale.

Defendants will suffer, as most, the marginal cost of printing the names of presidential candidates on otherwise blank ballots. That pales in comparison to the injury that Petitioners and the other NPP voters will suffer.

In light of the substantial and irreparable disparities in the harm that the parties will suffer, the equities weigh overwhelmingly in favor of Petitioners.

IV. CONCLUSION

For all the foregoing reasons, the Court should grant the requested provisional relief in its entirety.

Date: October 8, 2019.

Respectfully submitted,

BRIGGS LAW CORPORATION

By: _____
Cory J. Briggs

PEACE & SHEA, LLP

By: _____
S. Chad Peace

Attorneys for Plaintiffs and Petitioners Jim Boydston, Steven Fraker, Daniel Howle, Josephine Piarulli, Jeff Marston, and Independent Voter Project

WILLIAM M. SIMPICH, ATTORNEY AT LAW

By: 

William M. Simpich

Attorney for Plaintiff and Petitioner Lindsay Vurek

Additional Counsel:

William M. Simpich (State Bar No. 106672)
1736 Franklin Street, 9th Floor
Oakland, CA 94612
Tel: 415-542-6809

Attorneys for Plaintiff and Petitioner Lindsay Vurek

DECLARATION OF CORY J. BRIGGS

IN SUPPORT OF MOTION FOR PRELIMINARY INJUNCTION

I, Cory J. Briggs, am over the age of eighteen and if called as a witness in this lawsuit will testify as follows:

1. I am one of the attorneys for Plaintiffs and Petitioners Jim Boydston, Steven Fraker, Daniel Howle, Josephine Piarulli, Jeff Marston, and Independent Voter Project ("Petitioners") in this lawsuit.

2. Attached hereto as Exhibit "A" is a true and correct copy of *Historical Voter Registration and Participation in Statewide General Elections 1910-2018*, available on the Secretary of State's website at https://elections.cdn.sos.ca.gov/sov/2018-general/sov/04-historical-voter-reg-participation.pdf (last accessed October 3, 2019) and obtained during the ordinary course of business.

3. Attached hereto as Exhibit "B" is a true and correct copy of *Historical Voter Registration Statistics, Report of Registration as of Feb. 10, 2019*, available on the Secretary of State's website at https://www.sos.ca.gov/elections/report-registration/ror-odd-year-2019/ (last accessed October 3, 2019) and obtained during the ordinary course of business.

4. Attached hereto as Exhibit "C" is a true and correct copy of *Proposition 4: Open Presidential Primary*, Voter Information Guide for 1972, available online at https://repository.uchastings.edu/ca_ballot_props/774/ (last accessed Oct. 3, 2019) and obtained during the ordinary course of business.

5. Attached hereto as Exhibit "D" is a true and correct copy of *Proposition 14: Elections. Increases Right to Participate in Primary Elections (2010)*, available online at https://repository.uchastings.edu/ca_ballot_props/1301/ (last accessed Oct. 3, 2019) and obtained during the ordinary course of business.

6. Attached hereto as Exhibit "E" is a true and correct copy of *No Party Preference Information*, available at the Secretary of State's website at https://www.sos.ca.gov/elections/political-parties/no-party-preference/ (last accessed Oct. 6, 2019) and obtained during the ordinary course of business.

7. Attached hereto as Exhibit "F" a true and correct copy of *Report of Registration as of May 23, 2016, Registration by County*, available on the Secretary of State's website at https://elections.cdn.sos.ca.gov/ror/15day-presprim-2016/county.pdf (last accessed Oct. 6, 2019) and obtained during the ordinary course of business.

8. Attached hereto as Exhibit "G" is a true and correct copy of *Qualified Political Parties*, available on the Secretary of State's website at https://www.sos.ca.gov/elections/political-parties/qualified-political-parties/ (last accessed Oct. 8, 2019) and obtained during the ordinary course of business.

9. Attached hereto as Exhibit "H" a true and correct copy of *Guest editorial: When voting rights go right*, written by Secretary of State Alex Padilla and published in the La Mesa Courier on May 27, 2016, available online at https://lamesacourier.com/guest-editorial-when-voting-rights-go-right/ (last accessed Oct. 8, 2019) and obtained during the ordinary course of business.

10. Attached hereto as Exhibit "I" is a true and correct copy of *New Release: Tips for No Party Preference Voters* issued by the Secretary of State on May 27, 2016, available online at https://www.sos.ca.gov/administration/news-releases-and-advisories/2016-news-releases-and-advisories/tips-no-party-preference-voters1/ (last accessed Oct. 8, 2019) and obtained during the ordinary course of business.

11. Attached hereto as Exhibit "J" is a true and correct copy of *CA120: Confusion lurks in the California primary*, written by Paul Mitchell and published in Capitol Weekly on April 25, 2016,

available online at https://capitolweekly.net/ca120-confusion-lurks-primary-california/ (last accessed Oct. 8, 2019) and obtained during the ordinary course of business.

12. Attached hereto as Exhibit "K" is a true and correct copy of Defendants' response to Petitioners' first set of form interrogatories, served on my firm in the ordinary course of business.

13. Attached hereto as Exhibit "L" is a true and correct copy of *For independent voters, California lawmakers seek to end ballot confusion*, written by John Myers, Sacramento Bureau Chief, and published in the Los Angeles Times on April 2, 2019, available online at https://www.latimes.com/politics/la-pol-ca-california-primary-confusion-independent-voters-20190402-story.html (last accessed Oct. 8, 2019) and obtained during the ordinary course of business.

14. Attached hereto as Exhibit "M" is a true and correct copy of *Secretary of State's Opposition of the Secretary of the State to Motion for Preliminary Injunction*, filed in the United Stated District Court for the Northern District of California dated May 13, 2016; Case no. 3:16-cv-02739.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: October 8, 2019.

Cory J. Briggs

DECLARATION OF DANIEL HOWLE

IN SUPPORT OF MOTION FOR PRELIMINARY INJUNCTION

I, Daniel Howle, am over the age of eighteen and if called as a witness in this lawsuit will testify as follows:

1. I am an officer and co-chair of the non-profit organization Independent Voter Project ("IVP"). IVP represents a cross-section of registered California voters. IVP seeks to re-engage nonpartisan voters and promote nonpartisan election reform through initiatives, litigation, and voter education.

2. In 2010, IVP authored and led the education effort to pass California's nonpartisan, top-two open primary for statewide, legislative, U.S. House, and U.S. Senate elections, known as the "top-two" primary.

3. In 2013, IVP filed an initiative to make the presidential primary non-partisan. IVP subsequently withdrew its presidential primary initiative and penned a letter to the Secretary of State asking if the 2012 primary election was conducted properly. The Secretary of State did not respond.

4. In 2015, IVP began discussions with the Secretary of State to make sure the increasing number of NPP voters had a full right to participate in the 2016 presidential primary. IVP was unable to get the Secretary of State of Act.

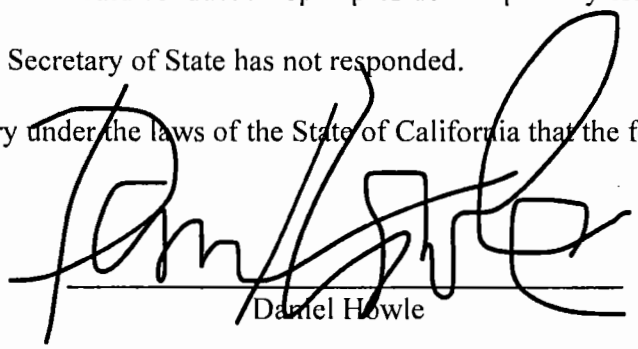
5. In 2016, IVP sponsored a resolution in the California Assembly calling on the Secretary of State to add the public ballot option to the 2016 presidential primary. It failed to get out of committee in a 2-2 bipartisan split vote.

6. In 2019, IVP again attempted to introduce legislation for the public ballot option. The legislative council drafted a bill authored by Assemblymember Arambula, but it was not introduced into committee.

7. On June 14, 2019, IVP Chair Dan Howle sent a certified letter to the Secretary of State requesting clarification on whether he would conduct an open presidential primary for independent candidates and voters. The Secretary of State has not responded.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: October 8, 2019.



Daniel Howle

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Attorney for Plaintiff Lindsay Vurek

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SAN BERNADINO

JIM BOYDSTON; STEVEN FRAKER; DANIEL HOWLE; JOSEPHINE PIARULLI; JEFF MARSTON; LINDSAY VUREK; AND INDEPENDENT VOTER PROJECT, a non-profit corporation,

Plaintiffs and Petitioners,

v.

ALEX PADILLA, in his official capacity as California Secretary of State; STATE OF CALIFORNIA; and DOES 1 through 1,000,

Defendants and Respondents.

Case No: CIVDS1921480

DECLARATION OF SVETLANNA CHYETTE

Action Filed: July 23, 2019
Department: S-32 (Hon. Wilfred J. Schneider, Jr.)

Hearing Date: November 19, 2019
Hearing Time: 8:30 a.m.

I, SVETLANA CHYETTE, declare:

1. I am a resident of Oakland, in Alameda County.

2. I am a student at Berkeley City College and became a first-time poll worker in Alameda County in 2016. I knew nothing of crossover voting before that time.

3. I had not met Dawn DelMonte before we found ourselves sitting next to each other at a poll worker training on May 19, 2016 in Alameda County that is the subject of this declaration. I recall that our trainer's first name was Ricardo.

4. During the training, Ricardo was showing a slide about how NPP meant no party preference. It wasn't clear how to instruct these voters.

5. Dawn asked what it meant for NPPs to be "crossing over", and the person behind her gave her a hard time for interrupting Ricardo's presentation.

6. I then asked "what do we do when someone gets an NPP ballot and doesn't realize that the ballot does not include a vote for president"?

7. The way Ricardo trained us, I was given the distinct impression that the voter was supposed to know that the ballot did not include a presidential option, and we were not supposed to inform them of the presidential vote option.

8. The people behind us then objected, saying things like it was a deliberate decision by the no party preference voters not to vote for president. A chaotic situation then ensued.

9. Ricardo then explained if an NPP person came back to the booth and said that they didn't get a chance to vote for President, you can spoil the ballot and then give them a new one.

10. I left not understanding how a crossover ballot worked, and that we were not supposed to inform NPP voters of their right to receive a presidential ballot. It was made clear that if they didn't ask for one, they didn't get one.

I declare under penalty of perjury that the foregoing is true and correct to the best of my personal knowledge. Executed in Berkeley, Alameda County, California on October 8, 2019.

SVETLANA CHYETTE

EXHIBIT A

HISTORICAL VOTER REGISTRATION AND PARTICIPATION IN STATEWIDE GENERAL ELECTIONS 1910-2018

	Registration					Votes Cast		
Election Date	Eligible	Democratic	Republican	Other	Total	Total Votes	Turnout Registered	Turnout Eligible
Nov. 8, 1910	725,000	*	*	*	*	393,893	*	54.33%
Nov. 5, 1912 P	1,569,000	*	*	*	987,368	707,776	71.68%	45.11%
Nov. 3, 1914	1,726,000	*	*	*	1,219,345	961,868	78.88%	55.73%
Nov. 7, 1916 P	1,806,000	*	*	*	1,314,446	1,045,858	79.57%	57.91%
Nov. 5, 1918	1,918,000	*	*	*	1,203,898	714,525	59.35%	37.25%
Nov. 2, 1920 P	2,090,000	*	*	*	1,374,184	987,632	71.87%	47.26%
Nov. 7, 1922	2,420,000	319,107	968,429	244,848	1,532,384	1,000,997	65.32%	41.36%
Nov. 4, 1924 P	2,754,000	397,962	1,183,672	240,723	1,822,357	1,336,598	73.34%	48.53%
Nov. 2, 1926	2,989,000	410,290	1,298,062	204,510	1,912,862	1,212,452	63.38%	40.56%
Nov. 6, 1928 P	3,240,000	592,161	1,535,751	185,904	2,313,816	1,846,077	79.78%	56.98%
Nov. 4, 1930	3,463,000	456,096	1,638,575	150,557	2,245,228	1,444,872	64.35%	41.72%
Nov. 8, 1932 P	3,573,000	1,161,482	1,565,264	162,267	2,889,013	2,330,132	80.65%	65.22%
Nov. 6, 1934	3,674,000	1,555,705	1,430,198	154,211	3,140,114	2,360,916	75.19%	64.26%
Nov. 3, 1936 P	3,844,000	1,882,014	1,244,507	127,300	3,253,821	2,712,342	83.36%	70.56%
Nov. 8, 1938	4,035,000	2,144,360	1,293,929	173,127	3,611,416	2,695,904	74.65%	66.81%
Nov. 5, 1940 P	4,214,000	2,419,628	1,458,373	174,394	4,052,395	3,300,410	81.44%	78.32%
Nov. 3, 1942	4,693,000	2,300,206	1,370,069	150,491	3,820,776	2,264,288	59.26%	48.25%
Nov. 7, 1944 P	5,427,000	2,418,965	1,548,395	173,971	4,141,331	3,566,734	86.13%	65.72%
Nov. 5, 1946	5,800,000	2,541,720	1,637,246	204,997	4,383,963	2,759,641	62.95%	47.58%
Nov. 2, 1948 P	6,106,000	2,892,222	1,908,170	261,605	5,061,997	4,076,981	80.54%	66.77%
Nov. 7, 1950	6,458,000	3,062,205	1,944,812	237,820	5,244,837	3,845,757	73.32%	59.55%
Nov. 4, 1952 P	7,033,000	3,312,668	2,455,713	229,919	5,998,300	5,209,692	86.85%	74.07%
Nov. 2, 1954	7,565,000	3,266,831	2,415,249	203,157	5,885,237	4,101,692	69.69%	54.22%
Nov. 6, 1956 P	8,208,000	3,575,635	2,646,249	186,937	6,408,821	5,547,621	86.56%	67.59%
Nov. 4, 1958	8,909,000	3,875,630	2,676,565	200,226	6,752,421	5,366,053	79.47%	60.23%
Nov. 8, 1960 P	9,587,000	4,295,330	2,926,408	242,888	7,464,626	6,592,591	88.32%	68.77%
Nov. 6, 1962	10,305,000	4,289,997	3,002,038	239,176	7,531,211	5,929,602	78.73%	57.54%
Nov. 3, 1964 P	10,959,000	4,737,886	3,181,272	264,985	8,184,143	7,233,067	88.38%	66.00%
Nov. 8, 1966	11,448,000	4,720,597	3,350,990	269,281	8,340,868	6,605,866	79.20%	57.70%
Nov. 5, 1968 P	11,813,000	4,682,661	3,462,131	442,881	8,587,673	7,363,711	85.75%	62.34%
Nov. 3, 1970	12,182,000	4,781,282	3,469,046	456,019	8,706,347	6,633,400	76.19%	54.45%
Nov. 7, 1972 P	13,322,000	5,864,745	3,840,620	760,850	10,466,215	8,595,950	82.13%	64.52%
Nov. 6, 1973 S	13,512,000	5,049,959	3,422,291	617,569	9,089,819	4,329,017	47.62%	32.04%
Nov. 5, 1974	13,703,000	5,623,831	3,574,624	729,909	9,928,364	6,364,597	64.11%	46.45%
Nov. 2, 1976 P	14,196,000	5,725,718	3,468,439	786,331	9,980,488	8,137,202	81.53%	57.32%
Nov. 7, 1978	14,781,000	5,729,959	3,465,384	934,643	10,129,986	7,132,210	70.41%	48.25%
Nov. 6, 1979 S	15,083,000	5,594,018	3,406,854	1,006,085	10,006,957	3,740,800	37.38%	24.80%
Nov. 4, 1980 P	15,384,000	6,043,262	3,942,768	1,375,593	11,361,623	8,775,459	77.24%	57.04%
Nov. 2, 1982	15,984,000	6,150,716	4,029,684	1,378,699	11,559,099	8,064,314	69.78%	50.45%
Nov. 6, 1984 P	16,582,000	6,804,263	4,769,129	1,500,238	13,073,630	9,796,375	74.93%	59.08%
Nov. 4, 1986	17,561,000	6,524,496	4,912,581	1,396,843	12,833,920	7,617,142	59.35%	43.38%
Nov. 8, 1988 P	19,052,000	7,052,368	5,406,127	1,546,378	14,004,873	10,194,539	72.81%	53.51%
Nov. 6, 1990	19,245,000	6,671,747	5,290,202	1,516,078	13,478,027	7,899,131	58.61%	41.05%
Nov. 3, 1992 P	20,864,000	7,410,914	5,593,555	2,097,004	15,101,473	11,374,565	75.32%	54.52%
Nov. 2, 1993 S	20,797,000	7,110,142	5,389,313	2,043,168	14,524,623	5,282,443	36.37%	27.73%
Nov. 8, 1994	18,946,000	7,219,635	5,472,391	2,031,758	14,723,784	8,900,593	60.45%	46.98%
Nov. 5, 1996 P	19,526,991	7,387,504	5,704,536	2,570,035	15,662,075	10,263,490	65.53%	52.56%
Nov. 3, 1998	20,806,462	6,989,006	5,314,912	2,665,267	14,969,185	8,621,121	57.59%	41.43%
Nov. 7, 2000 P	21,461,275	7,134,601	5,485,492	3,087,214	15,707,307	11,142,843	70.94%	51.92%
Nov. 5, 2002	21,466,274	6,825,400	5,388,895	3,089,174	15,303,469	7,738,821	50.57%	36.05%
Oct. 7, 2003 S	21,833,141	6,718,111	5,429,256	3,236,059	15,383,526	9,413,494	61.20%	43.12%
Nov. 2, 2004 P	22,075,036	7,120,425	5,745,518	3,691,330	16,557,273	12,589,683	76.04%	57.03%
Nov. 8, 2005 S	22,487,768	6,785,188	5,524,609	3,581,685	15,891,482	7,968,757	50.14%	35.44%
Nov. 7, 2006	22,652,190	6,727,908	5,436,314	3,672,886	15,837,108	8,899,059	56.19%	39.29%
Nov. 4, 2008 P	23,208,710	7,683,495	5,428,052	4,192,544	17,304,091	13,743,177	79.42%	59.22%
May 19, 2009 S	23,385,819	7,642,108	5,325,558	4,185,346	17,153,012	4,871,945	28.40%	20.80%

HISTORICAL VOTER REGISTRATION AND PARTICIPATION IN STATEWIDE GENERAL ELECTIONS 1910-2018 (continued)

	Registration					Votes Cast		
Election Date	Eligible	Democratic	Republican	Other	Total	Total Votes	Turnout Registered	Turnout Eligible
Nov. 2, 2010	23,551,699	7,620,240	5,361,875	4,303,768	17,285,883	10,300,392	59.59%	43.74%
Nov. 6, 2012 P	23,802,577	7,966,422	5,356,608	4,922,940	18,245,970	13,202,158	72.36%	55.47%
Nov. 4, 2014	24,288,145	7,708,683	5,005,422	5,089,718	17,803,823	7,513,972	42.20%	30.94%
Nov. 8, 2016 P	24,875,293	8,720,417	5,048,398	5,642,956	19,411,771	14,610,509	75.27%	58.74%
Nov. 6, 2018	25,200,451	8,557,427	4,735,054	6,403,890	19,696,371	12,712,542	64.54%	50.45%

Notes

* Indicates information not available.

P indicates a presidential election year.

S indicates a statewide special election.

The first statewide record of party affiliations was reported in 1922.

In 1911, women gained the right to vote in California.

In 1972, the voting age was lowered from 21 to 18.

EXHIBIT B

ODD-NUMBERED YEAR REPORT OF REGISTRATION
February 10, 2019

HISTORICAL VOTER REGISTRATION STATISTICS FOR ODD-NUMBERED YEAR REPORTS

TOTAL VOTER REGISTRATION

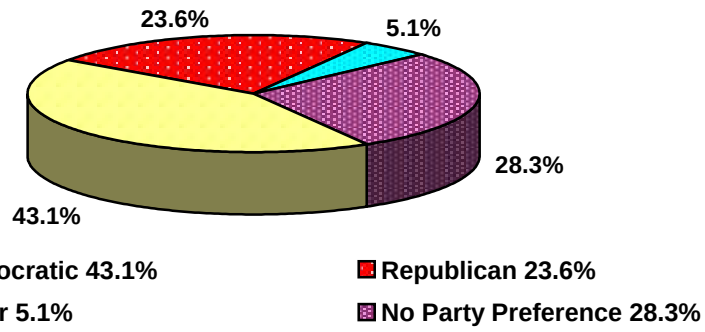
Report Date	Eligible Voters[1]	Registered Voters	Percent
February 10, 2019	25,259,865	19,978,449	79.09%
February 10, 2017	24,939,710	19,432,609	77.92%
February 10, 2015	24,362,774	17,717,936	72.73%
February 10, 2013	23,857,732	18,055,783	75.68%
February 10, 2011	23,605,858	17,186,531	72.81%
February 10, 2009	23,302,897	17,334,275	74.39%

[1]The figures given are unofficial but are based on U.S. Census data, as adjusted by information from the California Department of Finance and the California Department of Corrections and Rehabilitation.

REGISTRATION BY POLITICAL PARTY

Report Date	Democratic	Republican	No Party Preference	Other
February 10, 2019	8,612,368 43.1%	4,709,851 23.6%	5,645,665 28.3%	1,010,565 5.1%
February 10, 2017	8,700,440 44.8%	5,027,714 25.9%	4,762,212 24.5%	942,243 4.8%
February 10, 2015	7,645,173 43.2%	4,958,225 28.0%	4,175,643 23.6%	938,895 5.3%
February 10, 2013	7,932,373 43.9%	5,225,675 28.9%	3,766,457 20.9%	1,131,278 6.3%
February 10, 2011	7,569,581 44.0%	5,307,411 30.9%	3,507,119 20.4%	802,420 4.7%
February 10, 2009	7,716,790 44.5%	5,397,434 31.1%	3,465,345 20.0%	754,706 4.3%

Odd-Numbered Year Registration by Political Party



ODD-NUMBERED YEAR REPORT OF REGISTRATION
February 10, 2019

TRENDS

Since the last Odd-Numbered Year Report of Registration (February 10, 2017):

- The total voter registration in the state increased from 19,432,609 to 19,978,449.
- The percentage of eligible Californians who are registered to vote increased from 77.9% to 79.1%.
- The percentage of voters who have no party preference increased from 24.5% to 28.3%.
- The percentage of voters registered with a qualified political party decreased from 74.9% to 70.9%.
- The percentage of voters registered with the Democratic Party decreased from 44.8% to 43.1%.
- The percentage of voters registered with the Republican Party decreased from 25.9% to 23.6%.

POLITICAL PARTY REGISTRATION HIGHLIGHTS

The counties with the 10 highest percentages of Democratic Party, Republican Party, and No Party Preference registered voters are:

Democratic Party		**Republican Party**		**No Party Preference**	
San Francisco	56.78%	Modoc	49.04%	Santa Clara	34.46%
Alameda	55.41%	Lassen	48.65%	San Francisco	32.87%
Marin	55.31%	Shasta	45.76%	San Diego	31.62%
Santa Cruz	54.23%	Amador	43.71%	San Mateo	31.30%
Sonoma	51.52%	Mariposa	42.47%	Imperial	30.05%
San Mateo	49.97%	Tehama	42.42%	Alameda	29.63%
Los Angeles	49.70%	Plumas	41.97%	Lake	29.54%
Monterey	48.75%	Glenn	41.91%	Yuba	29.46%
Contra Costa	48.47%	Calaveras	41.36%	Mono	29.42%
Imperial	47.10%	Placer	41.08%	Los Angeles	28.79%

The counties with the three highest percentages of American Independent Party, Green Party, Libertarian Party, and Peace and Freedom Party registered voters are:

American Independent Party		**Green Party**	
Sierra	5.81%	Humboldt	2.27%
Lassen	5.33%	Mendocino	2.10%
Plumas	4.94%	Trinity	1.17%

Libertarian Party		**Peace and Freedom Party**	
Placer	1.63%	Trinity	0.60%
Calaveras	1.48%	Del Norte	0.57%
El Dorado	1.43%	Yuba	0.57%

COUNTY REGISTRATION HIGHLIGHTS

Largest County Increase In Registration Since the February 10, 2017, Report

County	Increase In Registration
Los Angeles	138,753
San Diego	69,915
San Bernardino	55,254
Orange	47,471
Riverside	36,774

Largest Increase In Registration By Percentage Since the February 10, 2017, Report

County	% Increase in Registration	# Increase in Registration
San Benito	10.0%	(+2,819)
Tulare	8.6%	(+13,513)
Merced	7.9%	(+7,217)
Alpine	7.2%	(+52)
San Bernardino	6.1%	(+55,254)

PRE-REGISTRATION HIGHLIGHTS

Current Count of Pre-Registered Voters[1]

Total	Democratic	Republican	No Party Preference	Other
142,717	45,189 31.7%	14,871 10.4%	73,496 51.5%	9,161 6.4%

Historical Pre-Registrations Totals[2]

Date	Pre-Registered Voters to Date
February 10, 2019	316,798
October 22, 2018	260,077
September 7, 2018	189,094
May 21, 2018	132,529
April 6, 2018	105,053
January 2, 2018	79,325
September 26, 2016	0

[1]Since September 26, 2016, 16- and 17-year-olds can pre-register to vote. Once they turn 18, they become automatically registered. Pre-registered voters may be activated before their 18th birthday if they will be 18 in an upcoming election. Those pre-registered voters were not eliminated from pre-registration statistics since they remain pre-registrants until their 18th birthday. Therefore, some voters are counted in both pre-registration and active registration statistics.

[2]Historical pre-registration totals show how many people pre-registered to vote since pre-registration began on September 26, 2016, including pre-registered voters who have since turned 18 and have become active voters.

EXHIBIT C

1972

Voter Information Guide for 1972, General Election

Proposed

AMENDMENTS TO CONSTITUTION

PROPOSITIONS AND PROPOSED LAWS

Together With Arguments

(Arguments in support or opposition of the proposed laws are opinions of the authors)

GENERAL ELECTION

Tuesday, November 7, 1972

Compiled by GEORGE H. MURPHY, Legislative Counsel
Distributed by EDMUND G. BROWN Jr., Secretary of State

PART I—ARGUMENTS

FOR BONDS TO PROVIDE PUBLIC COMMUNITY COLLEGE FACILITIES. (This act provides for a bond issue of one hundred sixty million dollars ($160,000,000).)	
AGAINST BONDS TO PROVIDE PUBLIC COMMUNITY COLLEGE FACILITIES. (This act provides for a bond issue of one hundred sixty million dollars ($160,000,000).)	

(For Full Text of Measure, See Page 1, Part II)

General Analysis by the Legislative Counsel *

A "Yes" vote (a vote FOR BONDS) is a vote to authorize the issuance and sale of state bonds up to $160,000,000 to provide funds for the major building construction, and for equipment and site acquisition needs, of California public community colleges.

A "No" vote (a vote AGAINST BONDS) is a vote to refuse to authorize the issuance and sale of state bonds for these purposes.

For further details, see below.

Detailed Analysis by the Legislative Counsel *

This act, the Community College Construction Program Bond Act of 1972, would authorize the issuance and sale of state bonds in an amount not to exceed $160,000,000. Money from the sale of the bonds, in amounts to be determined by the Legislature, would be used for major building construction, acquisition of equipment, and acquisition of sites, for public community colleges under the Community College Construction Act of 1967 or under any act enacted to succeed such act.

The act provides that the bonds, when sold, are to be general obligations of the state for the payment of which the full faith and credit of the state is pledged. It appropriates from the General Fund in the State Treasury the amount necessary to make the principal and interest payments on the bonds as they become due.

Money from the sale of the bonds could be expended only for the purposes specified in this act as set forth above and only pursuant to appropriation by the Legislature. The office of the Chancellor of the California Community Colleges would be required to total the appropriations made by the Legislature each year and to request the Community College Construction Program Committee, consisting of the Governor, the State Controller, the State Treasurer, the Director of Finance, and the Chancellor of the California Community Colleges, to have sufficient bonds issued and sold to carry out projects for which appropriations were made.

* Section 3566 of the Elections Code requires the Legislative Counsel to prepare an impartial analysis of each ballot measure.

Cost Analysis by the Legislative Analyst †

This act allows the state to borrow $160 million to be used by public community college districts to buy land, construct buildings, and acquire necessary equipment. These funds are to be borrowed through the sale of general obligation bonds which pledge the full faith and credit of the state.

This is a continuation of state assistance to public community colleges to meet their growth requirements. In 1961 and 1962 the Legislature appropriated a total of $10 million to community colleges for capital outlay purposes. Since then, community college capital outlay money has come from general obligation bond issues. To date, this bond money plus local money provided under a sharing formula has totaled $135 million. The formula provides that the state's share may range from 10 percent to more than 90 percent depending upon the community college district's needs and its ability to pay. In the event federal money is available, it is used before the state-local sharing formula is applied.

In June 1968, the voters approved a bond issue of $65 million for community college capital outlays. By 1971 this $65 million had been spent. Together with federal funds and the money provided by the local districts, the $65 million resulted in approximately $150 million worth of community college construction.

If this bond act is approved, $44,037,401 of it will be spent for construction projects contained in the 1972–73 state budget act. This will represent approximately 57 percent of construction costs budgeted in this year; the balance will come from federal contributions and district money. Officials of the California Community Colleges estimate that the $160 million provided by this bond act will be fully committed to authorized community college outlay projects by July 1, 1975.

The interest cost of these bonds will depend upon their maturity date and the interest rate, neither of which is known at this time. However, the average interest rate on the sale of the 1968 bonds was 4.8 percent.

† Section 3566.3 of the Elections Code requires the Legislative Analyst to prepare an impartial financial analysis of each ballot measure.

Argument in Favor of Proposition 1

Nearly one million students are in California's 95 Community Colleges now, and it is estimated that there will be more than a million before 1975. Official projections by the Community Colleges Chancellor's Office and the State Department of Finance show the need for Community College campus construction programs totaling some $303.5 million in the next three years.

State bond matching funds for Community College buildings are exhausted, and without additional state bonds the only financing for Community College construction would be local property taxes.

Approval of the bond act will enable Community College districts to construct educational facilities necessary to accommodate 80,000 more full-time equivalent students. The funds will be expended only if warranted by student enrollment growth.

Today, over half of the students enrolled in California public and private institutions of higher education are in attendance at public Community Colleges. Of $450 million invested in buildings on Community College campuses in the past 15 years, only $145 million have come from State funds, and facilities for Community Colleges are built at comparatively low cost per student. Bond funds cannot be used for matching district funds to build dormitories and student unions, to pay salaries or purchase supplies. These bond funds represent the least expensive means of financing other than through a direct tax. State bonds ordinarily have an amortization period of 20 to 25 years and have been sold in recent issues at between 4.7 and 5 percent.

Many benefits derive from the investment in Community College facilities. They offer high school graduates educational programs in vocational and technical skills which are valuable in serving the employment needs of the local job market. They provide an opportunity for young people to complete first two years of higher education, while residing at home, and to enter the University or a State College with junior standing. Adults desiring new vocational skills or to improve their vocational and technical skills are able to utilize the Community Colleges to great advantage. In addition, the Community Colleges offer communities the means to train welfare recipients in skills necessary for employment.

Each college is designed to serve the educational requirements of the local community and to relate its educational programs to the curricula of the secondary schools and of the state's institutions of higher education.

Californians have, through positive action, created a system of Community Colleges unequaled in the United States and, as a consequence, greatly increased the opportunity for youth to achieve post-high school education. There is no question that the Community Colleges have proved to be a sound educational investment for California citizens and taxpayers. It is clear that approval of the bond act is necessary to protect the state's Community College investment. It is also necessary if the state is to meet its commitment to provide state matching funds for community college construction.

The bond act passed both houses of the Legislature without a dissenting vote. It was approved by Governor Reagan. VOTE YES.

ROBERT J. LAGOMARSINO
State Senator, 24th District

ALBERT S. RODDA
State Senator, 5th District

2 **FOR BONDS TO PROVIDE HEALTH SCIENCE FACILITIES.** (This act provides for a bond issue of one hundred fifty-five million nine hundred thousand dollars ($155,900,000).)

AGAINST BONDS TO PROVIDE HEALTH SCIENCE FACILITIES. (This act provides for a bond issue of one hundred fifty-five million nine hundred thousand dollars ($155,900,000).)

(For Full Text of Measure, See Page 2, Part II)

General Analysis by the Legislative Counsel

A "Yes" vote (a vote FOR BONDS) is a vote to authorize the issuance and sale of state bonds up to $155,900,000 to provide funds for construction, equipment, and site acquisition for health science facilities at the University of California.

A "No" vote (a vote AGAINST BONDS) is a vote against authorizing the issuance and sale of state bonds for this purpose.

For further details, see below.

(Detailed analysis on page 7, column 1)

Cost Analysis by the Legislative Analyst

This proposition would authorize the state to borrow $155,900,000 through the sale of general obligation bonds to provide funds to expand, develop and construct health sciences facilities on a number of campuses of the University of California. The proceeds of these bonds would be deposited in a special fund reserved solely for these uses and funds would not be expended without specific legislative appropriations.

(Continued on page 7, column 2)

Detailed Analysis by the Legislative Counsel

This act, the Health Science Facilities nstruction Program Bond Act of 1971, uld authorize the issuance and sale of state bonds in an amount not to exceed $155,900,000 to provide funds for construction, equipment, and site acquisitions for health science facilities at the University of California.

Money from the sale of these bonds could be expended only for projects for which funds are appropriated by the Legislature in a separate section of the Budget Act. The Department of Finance would be required each year to total the appropriations made in such separate section of the Budget Act and to request the Health Science Facilities Construction Program Committee, consisting of the Governor, the State Controller, the State Treasurer, the Director of Finance, and the Chairman of the Regents of the University of California, to have sufficient bonds issued and sold to carry out such projects.

The bonds would be general obligations of the state, for the payment of which the full faith and credit of the state is pledged. The act would appropriate from the General Fund the amount necessary annually to make the principal and interest payments on the bonds as they become due. The bonds would be issued and sold pursuant to the State General Obligation Bond Law (Chapter 4 (commencing with Section 16720) of art 3, Division 4, Title 2 of the Government ode).

Argument in Favor of Proposition 2

Proposition 2 will mean better health care for the people of California without increasing property taxes, since its cost will not be paid from property tax sources.

California needs more doctors, dentists, nurses and other absolutely essential health personnel if people in this state are to be maintained in good health. Crowded waiting rooms, unavailable physicians, "no house calls" and skyrocketing costs are only some indications of an impending health care crisis. Other indications are more serious.

—All California medical schools combined —public and private—produce only 600 physicians annually, yet three times that number will be required annually just to maintain the existing California ratio of physicians to population.

—California's medical and dental schools are forced to turn away 90–95% of the qualified applications because space and training facilities are lacking. These problems are worsening every year.

By increasing the supply of health care personnel and services in the face of rapidly growing demand, Proposition 2 will help to ntrol spiralling health care costs. It will do

(Continued in column 2)

Cost Analysis by the Legislative Analyst

(Continued from page 6, column 2)

The planned expenditure program of the University anticipates additional federal grants totaling approximately $97.7 million and funds from other nonstate sources totaling approximately $71.3 million making a grand total with the state bond money of $324.9 million.

Under this plan, the major expenditures would occur at the new medical schools at Davis and Irvine with substantial expenditures at the oldest medical campus in San Francisco as well as at Los Angeles and San Diego. Some of the funds would also be expended at Berkeley and Riverside for medically related facilities, particularly in optometry and public health. Actual total enrollments in health sciences for the 1970–71 academic year were 7,015 with the major emphasis in medicine which accounts for more than one-half the total enrollment. The remaining enrollment is in dentistry, nursing, optometry, pharmacy, public and community health, and veterinary medicine. The goal of the proposed plan is for a total enrollment in health sciences in excess of 11,675. This would nearly double the enrollments in the medicine and public health disciplines and would increase enrollments in the other areas to a lesser degree.

The initial step in this plan has already been reviewed by the Legislature and specific projects have been authorized in the Budget Act of 1972. These appropriations authorize expenditures of $18,002,000 of these bond funds but of this amount it is estimated that only $10,038,000 would be expended if the maximum amount of anticipated federal grants is received.

The bonds are general obligation in nature and pledge the full faith and credit of the state for their payment. The repayment of the principal amount borrowed, as well as the interest thereon, will be borne by the general taxpayer as has been the case with similar issues to construct state educational facilities.

This measure has been substantially reduced from the $246.3 million proposed for University of California health scence facility construction in a proposition which was not approved by the electorate at the June 2, 1970 primary election.

(Continued from column 1)

so at the cost of just 50¢ per year per person over the life of the bonds and it will bring to California nearly $100,000,000 in federal matching funds to help us achieve this goal.

By dramatically increasing California's output of physicians, dentists, nurses, optometrists, medical researchers, pharmacists and veterinarians, Proposition 2 will help assure that California citizens will not needlessly suffer and even die for lack of medical care when they need it.

A vote for Proposition 2 is a vote for your good health as well as that of your family and friends.

STEPHEN P. TEALE
State Senator, 3rd District
WILLIE L. BROWN, JR.
Assemblyman, 18th District
BOB MONAGAN
Assemblyman, 12th District

Rebuttal to Argument in Favor of Proposition 2

The argument in favor of Proposition No. 2 states in general terms what everyone basically agrees with but still does not go to the basic issue of justifying the huge size of this bond issue divided as it is into two parts.

It is also true that California has for many years had to "import" doctors as our needs have long exceeded our supply; however, California is a very attractive state in which to practice medicine and always will be.

The proponents should have met the issues raised in the argument against this proposition, but have chosen not to.

Vote "No."

CLARK L. BRADLEY
State Senator, 14th District

Argument Against Proposition 2

A "No" vote is requested in connection with Proposition 2 providing for a $155,900,000 bond issue with an additional bond issue of $138,100,000 to go on the ballot in 1976, to provide funds to meet the construction, equipment, and site acquisition needs of the state for purposes of providing health science facilities at the University of California. This is a total of $294,000,000 over a period of four years. This is a revised proposal from the original proposal, calling for a vote on the total of $294,000,000 this November.

There are two basic objections to this proposition. One is the fact that the amount is still excessively high inasmuch as the purpose of the bond issue is ostensibly limited to but one field of study at the University of California and its campuses. This leaves the serious question as to how soon the University of California will have to come before the people for funds for capital outlay construction in all of the other areas of study at the University, and of course, if the first part of the bond issue is approved, the cry will be that we must approve the 1976 bond issue "to finish the job."

The second objection is the indefiniteness of the construction purposes. This act proposes to create a "Health Science Facilities Construction Program Committee." The term "Health Science Facilities" is very indefinite.

The 1972 amendments to Proposition 2 now state that the bonds "may" also be used for the purpose of constructing on-campus teaching hospitals at the University of California campuses at Davis and Irvine. Apparently, the funds would not be limited to this purpose and the conclusion, therefore, is the Act is deliberately made indefinite.

While the Act states that the proceeds of the bonds authorized to be used shall be used for the above stated purposes as are approved and authorized by the Legislature, the only way the Legislature seems to have any control is to be found in Section 7 of the 1971 part of the Act which provides that the proceeds so deposited in the fund shall be reserved and allocated solely for expenditure for the purpose specified in this Act and only pursuant to appropriation by the Legislature in the manner hereinafter prescribed. Section 8, which follows, says that a section shall be included in the Budget Bill for each fiscal year which section shall contain proposed appropriations. Apparently, the adoption of the Budget Act by the Legislature is the extent of the approval and authorization by the Legislature. It is not clear as to the power of the Legislature to change or modify the program contemplated by this Act.

I would much prefer a more open and direct proposal be submitted to the voters; there was no clearcut justification made to the Senate as to the need for the total amounts proposed. I urge a "No" vote.

CLARK L. BRADLEY
State Senator, 14th District

Rebuttal to Argument Against Proposition

The argument against Proposition 2 ignores the basic issue—California is facing a major medical care crisis. We badly need doctors, dentists, nurses and other health care specialists. Without the passage of this measure the quality of medical care in California may be severely jeopardized while the cost of treatment will continue to skyrocket.

Proposition 2 will enable us to train sufficient health care personnel and construct the minimum facilities necessary to meet the needs of our people. It will affect not one but many fields of study related to both human and animal health.

The argument against Proposition 2 is based on the premise that the measure should be for $294 million dollars instead of only 156 million dollars. This reasoning doesn't make sense. Why should we ask the voters to approve any more money than is absolutely necessary at this time?

The contention that the Legislature does not have enough power over these funds is misleading. Priorities have been set for projects needed, and, after the bond issue is approved by the voters, each project must be approved by the Legislature and the Governor before it can be started. No construction will be left incomplete to depend upon funding from a future bond issue.

Proposition 2 makes sense because it is a fiscally responsible program. It will cost the average citizen only 50¢ per year. From a dollars and cents point of view, Proposition 2 will mean better health care at a lower cost for California families.

STEPHEN P. TEALE
State Senator, 3rd District
WILLIE L. BROWN, JR.
Assemblyman, 18th District
BOB MONAGAN
Assemblyman, 12th District

3 **ENVIRONMENTAL POLLUTION BOND AUTHORIZATION. Legislative Constitutional Amendment.** Authorizes Legislature to provide for issuance of revenue bonds, not secured by taxing power of state, to finance acquisition, construction, and installation of environmental pollution control facilities, and for lease or sale of same to persons, associations, or corporations, other than municipal corporations. Financial impact: No direct cost.

YES	
NO	

(For Full Text of Measure, See Page 3, Part II)

General Analysis by the Legislative Counsel

A "Yes" vote on this legislative constitutional amendment is a vote to authorize the Legislature to provide for the issuance of revenue bonds to finance the acquisition, construction, and installation of environmental pollution control facilities and to provide for the lease or sale of such facilities.

A "No" vote is a vote against granting the Legislature such authority.

For further details, see below.

Detailed Analysis by the Legislative Counsel

This measure would amend the Constitution to authorize the Legislature to provide for the issuance of revenue bonds, not secured by the taxing power of the state, to finance the acquisition, construction, and installation of environmental pollution control facilities, including the acquisition of all technological facilities necessary or convenient for pollution control, and to provide for the lease or sale of such facilities to persons, associations, or corporations, other than municipal corporations. The Legislature would be authorized to prohibit or limit any proposed issuance of such revenue bonds by resolution adopted by either house.

The measure would not authorize a public agency to operate any industrial or commercial enterprise.

Argument in Favor of Proposition 3

Pollution control requirements, newly imposed by federal, state and local governments, now make it mandatory that private industry construct a wide variety of pollution control facilities to prevent air pollution, water pollution and other environmental contamination.

No amount of requirements, by themselves, can guarantee speedy compliance with these new pollution control standards. Compliance, in large part, depends upon the availability of adequate funds to finance construction of complex pollution control devices.

(Continued on page 10, column 1)

Cost Analysis by the Legislative Analyst

This constitutional amendment would permit the Legislature to provide for the sale of revenue bonds to finance the acquisition, construction and installation of pollution control facilities and for the lease or sale of such facilities to persons, associations, or corporations, other than municipal corporations. The repayment of the bonds would not be guaranteed by the taxing power of the state.

Assembly Bill No. 1925, which is pending in the current session of the Legislature would, if enacted and signed by the Governor, establish a California Pollution Control Financing Authority. The authority would be authorized to sell revenue bonds in the name of the State of California and to use the proceeds from the bonds to finance the cost of lands, equipment and construction of facilities for lease to private industry to control all forms of pollution to the environment. The lease rentals on the pollution facilities would pay the principal and interest on the revenue bonds and the operating costs of the authority.

AB 1925 would authorize the authority to issue $200,000,000 in revenue bonds to construct the pollution facilities. Additional amounts may be authorized by the authority unless either house of the Legislature passes a resolution disapproving the issue. The bill may be revised prior to final enactment or not enacted. Other legislation may be enacted but AB 1925 by its own provisions, is designated as the means of implementing this constitutional amendment.

Although any revenue bonds issued pursuant to this constitutional amendment would be self-supporting and not backed by the taxing power of the state, such bonds could have an effect on the finances of state government. First, the sale of large amounts of such bonds in addition to other state bonds could increase the interest rate on future issues of state bonds on which the interest is paid from tax revenues. Second, if revenues do not cover debt service on the revenue bonds, the state's ability to sell bonds could be impaired. As a consequence

(Continued on page 10, column 2)

Argument in Favor of Proposition 3

(Continued from page 9, column 1)

Unfortunately, not all California industries have readily available sources of such funds. For them, compliance with such requirements will mean diverting financing from current production efforts, together with plant shutdowns and personnel layoffs —a series of consequences which the still sluggish California economy cannot afford.

The alternative to this situation is to extend and to relax the timetable for compliance with pollution control standards. From the point of view of California's environment this is an equally unacceptable alternative.

Proposition 3 provides a satisfactory solution to this problem. It will amend the State Constitution so that California can take advantage of recent amendments to the Federal Internal Revenue Code which permit the issuance of state revenue bonds to finance pollution control facilities which, in turn, will be leased to private industries.

This approach, which is already in use in a number of industrial states, assures on-time compliance with pollution control requirements. Moreover, it provides a means of achieving compliance without plant shutdowns or layoffs which would disrupt the California economy.

Proposition 3 contains a full range of safeguards to protect the state. It provides that any revenue bonds issued to finance pollution control devices are not, and cannot become, obligations of the State of California or its taxpayers. The security for all such bonds will be the leases signed by individual industries together with mortgages on their property and other assets.

In addition, Proposition 3 gives the State Legislature the right to limit and regulate the amount of such revenue bonds which may be issued.

Legislation to implement Proposition 3 has already passed the State Assembly. Approval of Proposition 3 will enable the State Senate to vote on the enabling legislation in November and to implement this new program for pollution control as soon as possible.

To keep California's environment clean and to keep its economy strong, we urge your "yes" vote on Proposition 3.

JOHN T. KNOX
Assemblyman, 11th District
DONALD GRUNSKY
State Senator, 17th District

Rebuttal to Argument in Favor of Proposition 3

The argument presented by the proponents of Proposition 3 would have the voters believe that this Proposition is the only way industry can be aided in connection with the curbing of environmental problems. This is not the case as California has previously amended state law to allow industries an

(Continued in column 2)

Cost Analysis by the Legislative Analyst

(Continued from page 9, column 2)

the state might have to use General Fund revenues for revenue bond debt servic -sure that no bonds sold in the name e State of California default.

Until legislation is enacted to implement this constitutional amendment the above costs and other costs of this constitutional amendment will not be fully determinable.

(Continued from column 1)

accelerated depreciation write-off over five years which has worked very well in assisting industry and, in my opinion, nothing more is needed.

It should also be borne in mind that the real culprit of air pollution is the exhaust from our automobiles which causes from 80 to 85 percent of all air pollution which means that of the 15 to 20 percent of the remaining causes, industry is only accountable for 10 to 15 percent, with the remainder agricultural burning and all other causes. By solving our automobile problem and keeping reasonable controls on industry, we will have no air pollution problems in California.

Vote "No" on Proposition 3.

CLARK L. BRADLEY
State Senator, 14th District

Argument Against Proposition 3

This proposal is another "panic" type idea which is sweeping the state and natior v regarding pollution.

California's Constitution provides that the state cannot create a state debt except one made up of general obligation bonds voted on and approved by a majority of the votes cast in an election on such a bond issue.

This Constitutional Amendment would authorize issuance of revenue bonds by the Legislature and would open the door for an unlimited increase in a new indirect type of state debt which the voters would not be given the chance to vote on either as to the purpose or the amount of these bonds.

It is true that the Constitutional Amendment says that "the bonds shall not be secured by the taxing power of the state," however, since the Legislature would be voting the revenue bonds and upon their sale turning the proceeds over to a legislatively created corporation called the California Pollution Control Financing Authority, unless the Legislature wanted to "lose face" by reason of the failure of projects entered into by this corporation, in my opinion, no loss to the buyers of these bonds will be allowed, thus indirectly the bond buyers will be relying upon the Legislature to "bail them out"! The Legislature has adopted an enabling statute which goes into effect if this measure passes and this statute authorizes the issuance of $200 million in these bonds as a star

The money from these revenue bo il be in jeopardy from the start becaus- r a corporation gets a pollution control unit

built for them (many of which will run into millions of dollars each), and then the proj- does not work, or the corporation goes e, or moves out of the state, there will be no way to get back the money poured into this project.

Vote "No" and help protect the Legislature against itself.

CLARK L. BRADLEY
State Senator, 14th District

Rebuttal to Argument Against Proposition 3

The opposition argument to Proposition 3 is a typical "scare" argument. It tries to scare the voter into believing that Proposition 3 will increase his taxes—allegedly because an industry might "go broke", or move out of the state, then the state would have to "make good" the pollution control bonds from general tax funds.

This opposition argument has no basis in fact.

To safeguard against the possibility of default, each industry which leases pollution control facilities can be required to mortgage its properties—even those located outside of California—as security for its lease.

None of the other industrial states which currently use this type of financing for pollution control facilities have ever experienced any default or delinquency on pollution control bonds.

No bonds will be sold, and no leases signed, without the specific approval of a five member "Pollution Control Financing Authority". The State Treasurer, State Controller and State Director of Finance will be members of this Authority. Each of these individuals shares the responsibility for managing California's fiscal affairs. There is no reason to believe that they will approve leases with financially shaky corporations.

Proposition 3 amends the State Constitution to state explicitly that pollution control bonds cannot become, under any circumstances, the legal responsibility of the state or of its taxpayers.

Proposition 3 provides for a completely self-liquidating bond program which will not affect state taxpayers in any way. In this respect it is similar to the self-liquidating veterans' home loan bond program which has been in effect for many years in California.

JOHN T. KNOX
Assemblyman, 11th District

LEGISLATIVE REORGANIZATION. Legislative Constitutional Amendment. Amends and adds various constitutional provisions to provide for or affect two-year legislative sessions, automatic adjournment, special sessions, recesses, effective date of statutes, limitation on time for introduction of bills and presentation to Governor, vetoes, Governor's annual report, pardons, and legislators' terms and retirement. Financial impact: Cost decrease to state of between $16,500 and $60,000 per year.

YES	
NO	

(For Full Text of Measure, See Page 4, Part II)

General Analysis by the Legislative Counsel

A "Yes" vote on this legislative constitutional amendment is a vote to provide that the Legislature meet for a single two-year session during each two-year period between general elections instead of meeting in a new session each year.

A "No" vote is a vote to retain the existing annual sessions of the Legislature.

For further details, see below.

Detailed Analysis by the Legislative Counsel

This measure would make the following major changes in the Constitution:

(1) The Legislature **now** meets in regular session each year commencing on the first Monday after January 1. The length of the session is not specified.

This measure would provide, generally, for the regular legislative sessions to extend for the two-year period between general elections. The first regular session following approval of the measure would commence on January 8, 1973, and would continue un-

(Continued in column 2)

Cost Analysis by the Legislative Analyst

By abolishing the veto session as a separate period of the regular legislative session, this constitutional amendment would result in annual savings ranging from $16,500 to $60,000 (for a full five-day session) based upon the estimated daily cost of such sessions, including round-trip travel cost. The other provisions would result in no net change in costs.

(Continued from column 1)

til November 30, 1974. Thereafter, regular sessions would commence on the first Monday in December of each even-numbered year (following the general election) and would continue until November 30 of the next even-numbered year. The terms of office of Members of the Legislature would be revised to correspond to these changes.

(2) The Constitution **now** provides that a bill passed by both houses at a regular session becomes law unless the Governor vetoes it. The Legislature is required to recess at the end of a regular session and reconvene

(Continued on page 12, column 1)

Detailed Analysis by the Legislative Counsel

(Continued from page 11, column 2)

before final adjournment for the sole purpose of considering the Governor's vetoes. Statutes passed at a regular session, other than those taking effect immediately, take effect on the 61st day after final adjournment.

Under **this measure**, provision is made for consideration of the Governor's vetoes before adjournment of the session. Statutes of the regular session, other than those taking effect immediately, would become effective on January 1 next following a 90-day period after enactment.

(3) The law **now** provides that a bill introduced in one session may not be deemed pending at any other session. Thus, while a bill introduced in the first year following a general election may be reintroduced in the second year, it cannot be carried over automatically.

(Continued in column 2)

(Continued from column 1)

Under **this measure**, a bill introduced in the first year of the two-year session c be acted upon in the second year only were passed by the house of origin by January 30 of the second year.

(4) The law **now** provides that neither house of the Legislature may recess for more than **3** days without the consent of the other house.

Under **this measure**, neither house could recess for more than **10** days without the consent of the other house.

(5) The law **now** provides that until the budget bill is enacted, neither house of the Legislature can pass another appropriation except in an emergency bill recommended by the Governor or an appropriation for salaries or expenses of the Legislature.

Under **this measure**, such other appropriation bills could be passed by either or both houses but could not be sent to the Governor until the budget bill is enacted.

Argument in Favor of Proposition 4

This constitutional change is an easily understood proposal to streamline the operations of the Legislature. It will result in reforms in operations, greater efficiency, more responsiveness to the public and some modest recurring savings estimated at several hundred thousand dollars.

Briefly, it would:

- require the Legislature to meet one month earlier instead of losing the time we now lose in convening the session;
- shorten the time a defeated or retiring legislator would remain in office;
- require that the Legislature organize only once in the two year period between elections;
- reduce the costly process of reintroducing and reconsidering identical legislation each year;
- restrict the advantage enjoyed by special interest to defeat key legislation;
- eliminate unnecessary veto sessions; and
- permit other reforms in legislative rules.

The proposal eliminates a major deficiency in the existing Constitution which allows the Legislature to remain in session for an unlimited period each year, taking final action on every item of business. Instead, the proposed change would fix constitutional deadlines for legislative action over a two year period.

The amendment does not mean that the Legislature will be meeting continuously in Sacramento for two years. In fact, there are more limits on the amount of time the Legislature may act on legislation than currently exist. These limits are designed to give the Legislature a more business-like set of deadlines for its operations.

The amendment will not result in any increase in compensation or benefits to legislators.

Some special interests feel it will be more difficult to defeat key legislation because they use to their advantage the inefficiencies in the current procedures. The Legislature should not be structured for their benefit.

The amendment has the support of Republican and Democratic leadersh each House of the Legislature, Common Cause, the Planning and Conservation League, the League of California Cities and many other organizations which are concerned about the responsiveness of the legislative process.

We ask your support.

BOB MORETTI
Assembly Speaker
BOB MONAGAN
Assembly Republican Leader
FRED MARLER
Senate Republican Leader

Rebuttal to Argument in Favor of Proposition 4

Proposition 4 should be opposed by the public because it will not effectively reform the legislative process. The key to reform is not another constitutional amendment but instead public pressure on the Legislature to do the job within the present laws. There is no assurance that the passage of Proposition 4 will do some of the following things which can be accomplished without Proposition 4.

1—Open all committee meetings to the press and public.

2—Abolish ghost voting—a practice by which a representative authorizes a colleague to electronically vote for him i absence.

3—Limit per diem ($30.00) expense o 180 days maximum each year. The result would be to expedite sessions and allow

much needed time for interim study hearings.

4—Require members to lose their per diem failure to attend committee hearings.

–Require budget and revenue bills to be in the hands of the Governor by June 10 each year.

6—Require all measures to identify the sponsoring individual, organization or special interest group.

7—Change the unilateral appointing authority of the Speaker of the Assembly and place this authority in the Rules Committee.

8—Strictly enforce a recorded vote on all committee actions.

9—Require detailed monthly disclosure of all sources of political contributions and amounts received with detailed expenditures and unexpended balances on deposit in identifiable checking or savings accounts.

The above reforms would do much more to assure the priority of public interest in legislative reform than the proposed constitutional amendment.

KEN MACDONALD
Assemblyman, 37th District

Argument Against Proposition 4

The reforms to California's legislative system offered in this proposition address themselves to constitutional changes although the Legislature, on its own initiative, could and should institute many of these same reforms ltering its rules and procedures under existing constitutional framework. Considerable work and the careful attention of the voters have been invested over the past six years in streamlining our Constitution. We should endeavor to avoid further revision to this basic document except when absolutely necessary.

The Legislature has a responsibility to seek reforms in its procedures whether the Constitution is amended or not. Before the people are asked to approve Proposition 4 there should be a public showing that such steps will be undertaken.

There should be rules and procedures adopted to enforce certain deadlines for legislative actions both in committees and on final votes in order to avoid procrastination and delay. Mechanisms must be established to assure the public that bills that duplicate other bills are not processed at the expense of taxpayers' money. Amendments to bills should be strictly limited to only those which are germane to the subject matter of the bill that is amended.

Rules and procedures should encourage the development of committee sponsored bills, much the same as the procedure followed by the United States Congress. Committee bills favor a bipartisan approach to legislative decision making and benefit the entire population rather than one political party or another.

Interim fact-finding committee work needs to be resumed by the Legislature. To do this, fixed calendars should be established governing session length and guaranteeing meaningful periods of recess so the legislative committees will have time to hold information gathering hearings around the state.

Under Proposition 4 legislation that passes its house of origin in the first year of the biennium could be considered in the second year without re-introduction and re-processing the same measure in that house of origin as is the current practice. Bills that are defeated in the house of origin within the first year would be considered dead for the entire two-year session.

If the proposed biennial session plan is, in fact, going to save the hundreds of thousands of dollars its sponsors claim, then there must be assurances against needless second-year re-introduction and re-processing of bills that have been defeated in the prior year. Those assurances have not yet been spelled out.

All of these efficiencies and improvements are possible. Certainly, before the voters are faced with the decision to adopt or reject Proposition 4, the Legislature has a duty to spell out its intention to enact these reforms. Appropriate changes in legislative rules and procedures must be made available for the people to review before they can be expected to adopt this amendment.

KEN MACDONALD
Assemblyman, 37th District

5 **SCHOOL DISTRICTS. Legislative Constitutional Amendment.** Permits Legislature to authorize governing boards of all school districts to initiate and carry on any programs, activities, or to otherwise act in any manner which is not in conflict with laws and purposes for which school districts are established. Financial impact: None in absence of implementing legislation.

YES	
NO	

(For Full Text of Measure, See Page 6, Part II)

General Analysis by the Legislative Counsel

A "Yes" vote on this legislative constitutional amendment is a vote to permit the slature to authorize school boards to any action not in conflict with the laws

(Continued on page 14, column 1)

Cost Analysis by the Legislative Analyst

The State Constitution, Section 14, Article IX, authorizes the Legislature to provide for the incorporation, organization and classification of elementary, high school, junior college and unified school districts.

(Continued on page 14, column 2)

General Analysis by the Legislative Counsel

(Continued from page 13, column 1)

and purposes for which school districts are established.

A "No" vote is a vote not to grant this authority to the Legislature.

For further details, see below.

Detailed Analysis by the Legislative Counsel

Under the existing provisions of the Constitution, statutory authority is required to permit school boards to initiate and carry out programs or activities.

This measure would amend the Constitution to authorize the Legislature, commencing July 1, 1973, to enact legislation to permit school boards to initiate and carry on any programs, activities, or to otherwise act in any manner, not in conflict with the laws and purposes for which school districts are established.

Thus, the Legislature would not have to grant specific authority for a school board to carry out a particular activity, but could authorize school boards to carry out any activity if it is related to school purposes and is not prohibited by law.

Cost Analysis by the Legislative Analyst

(Continued from page 13, column 2)

This constitutional amendment, which would be effective July 1, 1973, would authorize the Legislature to permit governing boards of school districts to conduct programs and other activities which are not in conflict with existing law.

There are no direct costs, state or local, in the absence of implementing legislation. Legislation such as AB 272, passed by the 1972 Session of the Legislature and vetoed by the Governor, would have implemented this provision by empowering school districts to initiate and carry on any educational programs consistent with the laws and purposes for which school districts are established. The Education Code defines "education program" to mean the entire school-sponsored offering for pupils of a district, including in-class and out-of-class activities. To broaden the authority of school districts to initiate or expand programs will have direct cost implications for the districts to the extent that the authority is used. The authorization is permissive.

Argument in Favor of Proposition 5

Proposition 5 simply authorizes the Legislature to allow you and your school district to exercise more local discretion in making decisions concerning the education of your children.

Under the current Constitution, your local school boards cannot undertake any action without specific prior express authorization by the Legislature.

This proposition allows the Legislature to delegate more responsibility to your local school board—in effect placing the power of decision much closer to you and your influence.

If this proposition passes, the Legislature would still keep the power to impose specific requirements or prohibitions upon local school boards; but where the Legislature has not spoken, your local board would have the power to act.

Increasingly, we are recognizing the value of the uniqueness of each individual child, and his or her right to personalized education which responds to the particular individual child. The closer to the child the decision is made, the more likely it will fit the child.

We shouldn't try to fit all four million children in California's public schools into one mold superimposed from the State Capitol. Instead, we ought to fit our system to each individual child and his or her needs.

No group opposed this proposition in the Legislature. It is supported by the California School Boards Association, the Association of California School Administrators, the California Teachers Association, and the California Junior College Association.

Your "yes" vote on Proposition 5 give you more voice in the education of your children.

Please vote "yes" on Proposition 5.

JOHN VASCONCELLOS
Assemblyman, 24th District

Argument in Favor of Proposition 5

Constitutionally, no school administrator or administrative body in any of the 1,140 California school districts can do anything differently in the management-decision making process of his district without some type of legislative approval by the members of the California Legislature. This should be immediately recognized as inefficient, ineffective, and an unnecessary way to try and manage a school district.

With passage of this Proposition, local school boards will have greater ability to set their own policies with the Legislature only retaining the power to police and prohibit, if necessary, those policies which it judges not to be in the best interest of the State. This leaves the local school boards with the sole and primary responsibility to manage their own individual and unique school districts and be, in turn, totally responsible to the local constituency that voted and put them in office.

Simply stated, this Constitutional Amendment would convert our present system of school district management from a giant

state-wide "cookie cutter" to a system wherein locally elected school board officials can have total responsibility for the district's o[illegible]ional process tailored to the needs of it[illegible]ople without legislative interference.

School boards have had no choice in the past but to follow a standardized statewide policy of school management which, in my judgment, has contributed substantially to the misgivings and dissatisfaction that we all have with our present educational process. This proposition offers a chance to change this antiquated process. I ask for your "yes" vote.

DENNIS E. CARPENTER
State Senator, 34th District

Rebuttal to Arguments in Favor of Proposition 5

Most local school district superintendents and board members are responsible individuals, but it is equally true a few in the State's more than 1,100 school districts find it difficult to live within the broad limitations of the Education Code.

Proposition 5 would open the door for those few irresponsible individuals to experiment with programs and ideas which could seriously interfere with our children's right to an adequate and proper public education.

Under the unlimited, blank-check provisions of this proposition, a single individual, th[illegible]al school district superintendent, can e[illegible]nent without restraint with programs an[illegible]deas he otherwise would have to submit for legislative approval—and which very well could be opposed by a vast majority of parents.

As a result, every child in the school district would suffer the consequences.

Proponents of this ill-conceived proposition argue that "the Legislature would still keep power to impose specific requirements or prohibitions upon local school boards." But, "where the Legislature has not spoken, your local board would have the power to act." That is where the danger lies. The Legislature, in such cases, could act only after the damage is done.

Present law provides proper flexibility in the choice of programs, but it also provides prior restraints against experimentation with programs which are based solely on purely speculative theory. Under Proposition 5 there would be no adequate prior restraint and our children will be the victims who will have to suffer the heartbreaking task of recovery from irresponsibility—if recovery is even possible.

WILLIAM E. COOMBS
State Senator, 20th District

Argument Against Proposition 5

proposal places in the State Constitution open-end provisions to give more than 1,156 operating school district boards what amounts to a blank check and free hand to institute new and experimental programs, even though those programs may be only remotely related to legitimate educational needs.

By putting such power into the Constitution, effective control over irresponsible programming by any individual school board is seriously limited.

The only corrective action available to the Legislature, if such irresponsibility were to occur, would be to pass further legislation. This would virtually guarantee that education would become a political football at each session of the Legislature. Moreover, this measure could delay effective correction of any problem for many months, and possibly for years, during which time children in the affected district would be reaping the destructive fruits of whatever detrimental action which might be undertaken by their local board.

Insofar as any direct action is concerned, parents and taxpayers in any affected district would be limited to a recall of the board members responsible for the questioned actions. Or, alternatively, they could initiate corrective measures by statewide initiative proceedings. Both are long and costly and would, almost inevitably, involve bitterness and dissension that could only work to the detriment of the very schools and children that Proposition 5 purports to benefit.

It should be noted that this proposed Constitutional Amendment provides that "The Legislature may authorize the governing boards of all school districts to initiate and carry on any programs, activities, or to otherwise act in any manner which is not in conflict with the law and purposes for which school districts are established."

This would permit local school district boards to "initiate and carry on" programs which are only remotely related to legitimate educational needs, permitting them, for example, to ignore the basic educational programs and to concentrate, instead, on such cake-frosting things as "social adjustment."

Our State's Education Code has several thousand sections, each of which was enacted into law on the basis of an established and provable need and only after long and careful legislative consideration. Each of these sections was enacted with the expert advice and participation of our professional educational community—school administrators, teachers, and parents. Under that code, school boards already have broad and well-defined authority to institute and to try all reasonable experimental programs. Despite its apparent recognition of the broad flexibility of the existing code, this proposal would tend to controvert or reverse many of the provisions of the current, well-conceived law.

People of California can, and should, vigorously reject this newest effort to open the door to restoration of many of the discredited programs which we once knew as "progressive education." It would also open the door to

use time and money on innumerable "pet projects" at the expense of sound, basic education.

I urge my fellow citizens and taxpayers to vote "NO" on this ill-conceived attempt to open the door to the use of our children as academic guinea pigs.

WILLIAM E. COOMBS
State Senator, 20th District

Rebuttal to Argument Against Proposition 5

The opposition argument misstates the effect of Proposition 5. The proposition doesn't automatically provide any power to school districts. It won't change anything currently required or forbidden. It only authorizes the Legislature to delegate power—as it chooses—to school districts. The Legislature keeps power to change or withdraw any power so delegated.

The opposition argument mistakes the intent of Proposition 5. There's no evil intent. Instead, the intent is to entrust your local school board with more responsibility and flexibility to tailor education precisely to the unique needs of your own children. Total uniformity statewide isn't healthy for children.

The opposition argument shows ignorance of our education code. It's a confusing mess, several volumes long. Ask any educator, or ask to see it at your local school.

The opposition argument shows arro—assuming the Legislature—big brother in Sacramento—knows best and that your school board can't be trusted at all.

Don't be misled by legislators who want to keep absolute power for themselves, who assume that only they know what's good for children.

72 of 80 assemblymen and 28 of 40 senators voted to put this proposition before you—for your decision.

Leaders of each party, in both houses, believe this proposition will improve education, and help children.

Let the Legislature let your school board have more flexibility in operating your local school. Let the Legislature let you—parents, teachers, citizens, classified employees—have more immediate voice in educating your children locally.

Vote "yes"on Proposition 5.

JOHN VASCONCELLOS
Assemblyman, 24th District

6 MISCELLANEOUS CONSTITUTIONAL REVISIONS. Legislative Constitutional Amendment. Deletes certain constitutional provisions and reinserts them in other articles. Deletes provision limiting four-year maximum terms of officers and commissions when terms not provided for in Constitution. Prohibits reduction of elected state officers' salaries during term. Permits Legislature to deal with tax matters in connection with changes in state boundaries. Requires Legislature to provide for working of convicts for benefit of state. Financial impact: None.

YES	
NO	

(For Full Text of Measure, See Page 6, Part II)

General Analysis by the Legislative Counsel

A "Yes" vote on this legislative constitutional amendment is a vote to revise various articles of the Constitution. The revision would include: the repeal of a provision limiting the terms of officers and commissioners to four years; the addition of a provision prohibiting the reduction of salaries of elected state officers during their terms of office and providing that a law setting such a salary constitutes an appropriation; and the amendment, renumbering, and transfer of provisions relating to various subjects without substantive change.

A "No" vote is a vote to reject this revision.

For further details, see below.

Detailed Analysis by the Legislative Counsel

1. This measure would effect a partial revision of the Constitution, making the following changes **which are substantive:**

(Continued in column 2)

Cost Analysis by the Legislative Analyst

The various revisions and deletions of existing language in the State Constitution proposed by this amendment will not result in any cost or revenue changes.

(Continued from column 1)

(a) The provision which limits the term of any officer or commissioner, with specified exceptions, to a maximum of four years where the term is not provided for in the Constitution would be repealed. The subject matter of the deleted provision would thus be subject to legislative control through the enactment of statutes.

(b) A provision would be added to prohibit any reduction in the salaries of elected state officers during their term of office and to provide that the laws setting those salaries are appropriations. This would nate the existing requirement that th e

(Continued on page 17, column 1)

Detailed Analysis by the Legislative Counsel

(Continued from page 16, column 2)

specific appropriation enacted in the Budget Act, or otherwise, to pay salaries.

2. This measure would amend, renumber, or transfer the following provisions, **without substantive change:**

(a) Section 3 of Article I would be transferred to Article III as a new Section 1. This section provides that California is an inseparable part of the United States and that the United States Constitution is the supreme law of the land.

(b) Section 1 of Article XX would be transferred to Article III as a portion of a new Section 2. This section provides that Sacramento is the capital of California.

(c) Article III would be renumbered as Section 3 of Article III. It establishes the powers of state government as legislative, executive, and judicial and prohibits persons charged with the exercise of one power from exercising either of the others except as permitted by the Constitution.

(d) Section 6 of Article XX would be transferred to Article III as a new Section 5. This section permits suits to be brought against the state in such manner and in such courts as shall be directed by law.

(e) Part of Section 2 of Article XXI would be transferred to Article XIII as a new Section 44. It permits the Legislature in connection with any change or redefinition of state boundaries to provide for and deal with all matters involving the taxation or the exemption from taxation of any real

(Continued in column 2)

(Continued from column 1)

or personal property involved in, or affected by, such change or redefinition of state boundaries.

(f) Article X, in part, would be transferred to Article XX as a new Section 5. It prohibits the labor of convicts from being let out by contract to any person, copartnership, company, or corporation and requires the Legislature to provide by statute for the working of convicts for the benefit of the state.

(g) Section 1 and part of Section 2 of Article XXI would be transferred to Article III as part of a new Section 2. Section 1 of Article XXI **now** contains a detailed description of the boundaries of the state, while the first sentence of Section 2 of Article XXI now provides that the Legislature may change or redefine the state boundaries in cooperation with the properly constituted authority of any adjoining state, such change or redefinition to become effective only upon approval of the Congress of the United States.

This measure would delete the boundary description and the conditions requiring both cooperation with any adjoining state and congressional approval. It would provide that the boundaries of the state are those stated in the Constitution of 1849 as those boundaries have been or may be modified by the Legislature by statute. This would leave the detailed description of the state's boundaries a matter for statutory law, as is now the case, and would leave unaffected the conditions presently imposed upon the modification of those boundaries as a matter of federal constitutional law.

Argument in Favor of Proposition 6

Proposition 6 continues the work of the Constitution Revision Commission by updating and modernizing our State Constitution. In the revision proposal six sections are rearranged, one is repealed and one new section is added. All basic rights are retained. A "YES" vote on Proposition 6 simplifies provisions relating to federal supremacy, State boundaries and suits against the State, and collects various scattered provisions into a single article. Existing law on these matters is not changed, but the Constitution is simplified and improved.

Proposition 6 deletes a provision limiting terms to four years. This limitation is undesirable because it makes a constitutional amendment necessary anytime an exception is desired.

Proposition 6 also protects elected State officers in all three branches of government by providing that their salaries can't be reduced during the term for which they were elected and makes salary statutes appropriations. This will not increase the cost of government or cost the taxpayers more, but will strengthen the independence of all three branches of government.

A "YES" vote on Proposition 6 will continue the job of revision begun several years ago to revise and modernize California's Constitution so that it will be a clear, concise and workable document.

Proposition 6 is a completely nonpartisan measure. This is illustrated by the fact that this measure passed both houses of the Legislature with only one dissenting vote. This measure is also supported by the League of Women Voters.

Vote "YES" on Proposition 6 and help keep California's government efficient and effective.

ROBERT G. BEVERLY
Assemblyman, 46th District

NICHOLAS C. PETRIS
State Senator, 11th District

JUDGE BRUCE W. SUMNER, Chairman
Constitution Revision Commission

7 **ELECTIONS AND PRESIDENTIAL PRIMARY. Legislative Constitutional Amendment.** Requires Legislature to provide for primary elections for partisan offices, including an open presidential primary. Provides that a United States citizen 18 years of age and resident of this state may vote in all elections. Declares certain offices nonpartisan. Provides for secret ballot. Requires Legislature to define residence, provide for registration and free elections, prohibit improper election practices, and remove election privileges of certain persons. Financial impact: None.

YES	
NO	

(For Full Text of Measure, See Page 8, Part II)

General Analysis by the Legislative Counsel

A "Yes" vote on this legislative constitutional amendment is a vote to revise portions of the California Constitution dealing with qualifications for voting, voter residence, primary elections, and conduct of elections.

A "No" vote is a vote to reject this revision.

For further details, see below.

Detailed Analysis by the Legislative Counsel

This measure would revise the Constitution by making the following changes:

(1) Qualifications for Voting

Generally, the Constitution **now** provides that every citizen of the United States of the age of 21 years, who has been a resident of the state one year, of the county 90 days, and of the election precinct 54 days prior to an election, has the right to vote, except aliens ineligible to citizenship, idiots, insane persons, persons convicted of infamous crimes or of embezzlement or misappropriation of public money, and any person unable to read the Constitution in English and write his name (unless he is prevented by physical disability or had the right to vote in 1911). It also **now** authorizes the Legislature to extend the right to vote for presidential electors to persons residing in the state for 54 days who meet all other requirements except time of residence and who would have been qualified to vote at the presidential election in another state had they remained in that other state.

The **age** requirement was recently reduced to 18 years of age by enactment of the Twenty-sixth Amendment to the United States Constitution. The **residence** requirements were recently reduced by the California Supreme Court to 30 days in the state, county, and precinct. The English **language** requirement was recently suspended until August 6, 1975, and thereafter for an indefinite period in certain counties by the federal Voting Rights Act Amendments of 1970, and modified by the California Supreme Court to allow persons to vote who are literate in Spanish but not in English.

This measure would delete the existing qualifications for voting and add provisions which specify that any United States citizen

(Continued in column 2)

Cost Analysis by the Legislative Analyst

Adoption of this constitutional amendment will have no effect on state or local revenues or costs.

(Continued from column 1)

18 years of age and resident (as defined by the Legislature) in this state may vote, except that the Legislature must provide that no severely mentally deficient person, insane person, person convicted of an infamous crime, or person convicted of embezzlement or misappropriation of public funds may vote.

(2) Voter Residence

The Constitution **now** provides that any voter moving from one county to another within 90 days of an election, or moving from one precinct to another within the same county within 54 days of an election, shall be deemed a resident of the county or precinct from which he moved until after such election. It also provides that voting residence is not affected by presence or absence while in the service of the United States, while engaged in nautical pursuits, while a student, while kept at an alms-house or other asylum at public expense, or while in prison.

This measure would delete the existing voter residence provisions and require the Legislature to define residence.

(3) Primary Elections

The Constitution **now** authorizes the Legislature to enact laws concerning specific aspects of political conventions and primary elections, and requires the Legislature to provide for the direct nomination of candidates at primary elections. It **now** provides that, unless restricted by charter, a candidate for nonpartisan office who receives a majority of votes cast for that office at a primary election is elected. It **now** requires the Legislature to provide for an open presidential primary.

This measure would delete the existing primary election provisions and require the Legislature to provide for primary elections for partisan offices. Provisions for an open presidential primary would be unchanged. Judicial, school, county, and city offices would be continued as nonpartisan offices.

(Continued on page 19, column 1)

Detailed Analysis by the Legislative Counsel

(Continued from page 18, column 2)

onduct of Elections

...e Constitution **now** provides that voters are privileged from arrest on election days, except for treason, felony, or breach of the peace, and that voters are exempt from militia duty on election days, except in time of war or public danger. It **now** provides for

(Continued in column 2)

(Continued from column 1)

secret voting, and authorizes the Legislature to establish different voting methods for different parts of the state including the use of mechanical voting devices on a local option basis.

This measure would delete the existing conduct of elections provisions and provide the Legislature shall prohibit improper election practices and that voting shall be secret.

Argument in Favor of Proposition 7

Proposition 7 revises Article II of the State Constitution and brings it into conformity with recent changes in the laws governing voting.

The existing California Constitutional sections relating to voting are obsolete as federal legislation and court decisions have made many of these provisions invalid. Nationally, the voting age is now 18, and the basic resident requirement is 30 days. Existing Article II is therefore inadequate and obsolete and should not be retained in the Constitution in its present form. A "YES" vote on Proposition 7 will remove this obsolete material and bring our State document up to date.

A YES on Proposition 7 will also provide California with a clear, concise, and accurate Article on voting. This language was approved by both houses of the Legislature, is nonpartisan measure, and is endorsed by ague of Women Voters. There is no cost to ...e taxpayers. It removes detailed and unnecessary language relating to primary elections, voting machines, militia duty on election day, fluency in English and similar matters, and retains these details in the statutes. It also renumbers without change the provision adopted by the voters in the last June's primary election relating to open presidential primary.

Vote "YES" on Proposition 7 to keep our California Constitution up to date.

ALBERT S. RODDA
State Senator, 5th District
JOHN T. KNOX
Assemblyman, 11th District
JUDGE BRUCE W. SUMNER, Chairman
Constitution Revision Commission

Rebuttal to Argument in Favor of Proposition 7

It is true as the proponents state that recent court decisions and federal legislation have made the basic residence requirements for voting at this time 30 days. Just as sure as federal legislation and the courts can shorten these requirements, they can at a future time lengthen them, and many people think they very well may do so. There is t... ore no reason to change our Constituti... ecause of what federal legislative or court actions have done in the past.

It is true that favor of the Secretary of State selecting presidential candidates to appear on the ballot was indicated by voters of the June Primary just past, but there is no reason to freeze into the Constitution a provision which mandates that the Legislature do this particularly in a proposition of this kind which relates to so many other matters as well.

The proponents point to what they believe to be "unnecessary" language relating for example to abolishing the necessity of a voter having some familiarity of the English language. There are many persons who believe this and much other language presently in the Constitution to be extremely necessary to protect the rights of all of us. We should, therefore, continue our present constitutional protections and vote "no" on this proposition.

JAMES E. WHETMORE
State Senator, 35th District

Argument Against Proposition 7

Proposition 7 wipes out a number of our traditional protections in the area of voting eligibility.

Presently, a person must be a resident of the state for one year, of the county for 90 days and of the precinct for 54 days before voting. Proposition 7 deletes this requirement and allows the Legislature to set whatever requirements it desires. Both legislative sentiment and recent court decisions have pointed toward a mere 30-day residence requirement which would allow a transient population or even tourists in the area for 30 days to vote for additional taxes and bond indebtedness, thus possibly saddling an otherwise stable community with debts to be paid long after the transients and tourists have moved on. Arguably, a person should have at least some "roots" in a community before being allowed to plunge it into debt. While it will be argued that court decisions have abolished residency requirements, it should also be remembered that courts can and have made decisions in one direction, and after a period of time completely reversed themselves. In the next few years the philosophies of our courts may well change to a reflection of more conservative points of view with decisions once again protecting the communities rather than exposing them to this unfair, short residence voting requirement. Court decisions thus are no reason to change our Constitution at this time.

Proposition 7 provides that while names of presidential candidates can be placed

on the ballot by petition, the primary method by which a candidate's name may be placed on the ballot is by the Secretary of State in his judgment and his judgment alone passing on the candidate's "recognition," and thus deciding as a practical matter which candidates will be voted on by the people. This is too important a matter to be left to the judgment of any one person.

Presently the Constitution requires that a person be able to read the Constitution in English and write his or her own name in order to vote. Proposition 7 removes this requirement completely, thus allowing persons who cannot read or write to vote on all public issues. It is difficult to see how a person who could not read or write could understand the ballot when many persons whose knowledge of English is fluent appear to have difficulty with it. Opening the vote to persons who cannot understand the language of this country is an open invitation to uninformed voting, and voting based upon how someone tells them to vote. This can only lead to corruption of the worst kind.

Since Proposition 7 abolishes all residential requirements and leaves them up to the Legislature, since it places in the hands of the Secretary of State the complete judgment as to whose names should be on the presidential ballot, and because it allows persons to vote who cannot read and write, Proposition 7 should be defeated and the present system which has worked well for many years should be retained.

JAMES E. WHETMORE
State Senator, 35th District

Rebuttal to Argument Against Proposition 7

The argument against Proposition 7 unfortunately fails to address current law and the intent of the Legislature to remove from the Constitution language that has been declared unconstitutional or has been changed by Congress. The people of the State of California should not be misled regarding their fundamental right to vote when reading the Constitution.

To assert that this measure is unnecessary because future court decisions may further alter residence and registration requirements is actually the strongest argument in support of Proposition 7. This is precisely why the Constitution Revision Commission retains only the most basic voting requirements in the Constitution and authorizes the Legislature to act in the future on technical election procedures and deadlines.

The open presidential primary was added to the Constitution by the people in June 1972. A "Yes" vote merely renumbers that provision to conform to other language in Article II.

The existing State Constitution has an "English" literacy requirement. This provision is meaningless as it is now impossible to enforce and has recently been held invalid by our Supreme Court as discriminatory against Californians literate in Spanish and other languages. Proposition 7 does not take away the power of the Legislature to enact any literacy requirement which may be lawfully applied.

The argument against Proposition 7 is in reality an argument to keep inaccurate, unenforcible and obsolete material in our Constitution. Vote "Yes" to replace 1,000 outdated words with the concise and accurate statement of our right to vote.

ALBERT S. RODDA
State Senator, 5th District
JOHN T. KNOX
Assemblyman, 11th District
JUDGE BRUCE W. SUMNER, Chairman
Constitution Revision Commission

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8 TAX EXEMPTION FOR ANTI-POLLUTION FACILITIES. Legislative Constitutional Amendment. Authorizes Legislature to exempt from ad valorem taxation facilities which remove, eliminate, reduce or control air, water or noise pollution to or in excess of standards required by state or local requirements and to provide state subventions to local governments for revenues lost by reason of such exemptions. Financial impact: None in absence of implementing legislation.

YES	
NO	

(For Full Text of Measure, See Page 10, Part II)

General Analysis by the Legislative Counsel

A "Yes" vote on this legislative constitutional amendment is a vote to authorize the Legislature, by a majority vote, to exempt, in whole or in part, air, water, and noise pollution control facilities from property taxation, with compensation of local governments for taxes thereby lost.

A "No" vote is a vote against granting this authority to the Legislature.

For further details, see below.

(Detailed analysis on page 21, column 1)

Cost Analysis by the Legislative Analyst

This constitutional amendment authorizes the Legislature to exempt from property taxation any facility designed to control air, water, or noise pollution, including machinery and equipment installed to meet requirements of the law. The amendment also requires the Legislature to pay money to cities, counties, and special districts including schools to replace any loss of property tax revenue they may sustain as a result of

(Continued on page 21, column 2)

Detailed Analysis by the Legislative Counsel

Under the **existing** provisions of the Constitution, the Legislature may exempt real property from property taxation only where the Constitution specifically authorizes the exemption. The Legislature may exempt personal property from taxation by a two-thirds vote of each house. There is no general constitutional requirement that the state compensate local governments for property tax revenues lost by reason of any such exemption.

This measure would authorize the Legislature, by majority vote, to exempt from taxation, in whole or in part, any air, water, or noise pollution control facility. Such facility would be defined to mean real or personal property, or a combination of both, which brings air, water, or noise pollution within standards set by applicable law and regulation. The facility would have to be in the form of equipment or systems but would not include a building unless the entire building constitutes such a facility.

The Legislature would be required to compensate counties, cities and counties, cities, and districts for revenue lost by each by reason of such exemption.

The Legislature would be granted unqualified power to define terms used in the measure.

Conflicting Measures

The authority granted by this measure would conflict with the limitations proposed in Proposition No. 14. If both are approved the one receiving the highest vote will prevail.

Argument in Favor of Proposition 8

It is only fair that facilities which must be built for the public's benefit to meet or exceed pollution control standards should not have to pay ad valorem taxes on such installations which produce little or no revenue and which rarely add to the quality or quantity of a commercial product.

Twenty-four other states already recognize this fairness doctrine through adoption of tax relief provisions in connection with pollution control facilities. These include such important manufacturing states as New York, New Jersey, Ohio, Michigan, Illinois, Indiana, Massachusetts and Wisconsin. California should provide similar legislation in order to reduce a competitive edge enjoyed by those states. A "yes" vote will help to provide that equality.

At the same time, a "yes" vote of itself does not bring about any tax reduction for business. It only permits the State Legislature in the future to consider such exemption for pollution control installations that meet or exceed environmental standards set by law.

Property owners, cities, counties, school

(Continued in column 2)

Cost Analysis by the Legislative Analyst

(Continued from page 20, column 2)

the exemption. The amendment will have no fiscal effect unless the Legislature enacts implementing legislation.

If the Legislature does enact implementing legislation, the assessed value of property will decrease in jurisdictions—cities, counties, school districts and special districts—where the exemption is claimed. The revenue of these jurisdictions will not decrease, however, if, as the amendment requires, the Legislature appropriates money to local government to make up for any revenue losses the exemption may cause.

On the state level, the amendment, if implemented by the Legislature, will require an annual appropriation of an unknown amount to reimburse local government for its losses. The amount cannot be estimated for two reasons: (1) The content of the implementing legislation cannot be predicted; it may be either liberal or restrictive with respect to the exemption. (2) The extent to which taxpayers will claim tax benefits under the exemption cannot be predicted. It can be observed, however, that recent federal and state legislation requires extensive investment in pollution control devices. If these devices qualify for a property tax exemption, the cost to the state might be substantial.

(Continued from column 1)

districts and special districts within California would be financially protected by the provisions contained in the measure. Funds would be allocated to local governments to offset amounts lost by any enactment adopted by the Legislature pursuant to the provisions of this Constitutional Amendment.

We recommend a "yes" vote.

WALTER W. STIERN
State Senator, 18th District
WILLIAM E. COOMBS
State Senator, 20th District
JOHN T. KNOX
Assemblyman, 11th District

Rebuttal to Argument in Favor of Proposition 8

While the proponents attempt to defend giving this tax break to those that are polluting our environment, I would ask:

"Is it fair to give big business a property tax break when individuals receive no reduction in motor vehicle fees for their smog devices?"

The answer is "NO". Proposition 8 is a tax loophole that will benefit big business under the guise of aiding pollution control and being fair to business. We have enough of these loopholes already.

This loophole will be a costly one to California taxpayers. The costs of Proposition 8 will involve multi-millions to reimburse local governments for their tax losses. This will

result either in another state tax increase—which you and I will pay—or a reduction in funds available for critical needs—including school support and homeowner property tax relief.

It is time to reject the myth that pollution control is something that does irreparable damage to industry; in many cases, it forces industry to adopt modern methods which provide greater efficiency in the production process.

Summarizing, Proposition 8 will not reduce pollution, will raise state taxes, and will unfairly give business a tax break denied ordinary taxpayers.

It is high time to reject the notion that big business cannot afford the costs of pollution control without another constitutionally imposed special privilege.

It is high time to make it clear to all concerned that the people of California are tired of tax loopholes and subsidies.

VOTE "NO" ON PROPOSITION 8!

JOHN F. DUNLAP
Assemblyman, 5th District
CHARLES WARREN
Assemblyman, 56th District
JOHN L. BURTON
Assemblyman, 20th District

Argument Against Proposition 8

I strongly oppose Proposition 8 and I urge you to vote NO.

This amendment will do absolutely nothing to improve the environment or to control pollution. It will give a tax break to business interests that are now polluting our environment. All other taxpayers will be forced to pay for this big business tax relief.

The effect of this amendment is to subsidize those who are required by law to comply with pollution control standards. As such, it will be another tax loophole that the rest of us will pay for with our tax dollars.

Proposition 8 is too broadly worded. Legal authorities have advised us that:

—existing pollution control facilities will be eligible to receive this tax exemption, even if they no longer comply with standards.

—items such as carpeting, acoustical ceilings, toilets, and air conditioners with filters could receive the exemption. I earnestly urge everyone not to be hoodwinked by those who urge passage of this amendment!

—It will not act as an incentive for business and industry to control their pollution; it is merely a giveaway for doing what the law already requires.

—It does not require prices to be reduced on products that will benefit from this exemption.

—This amendment is a tax loophole and an outright subsidy.

—This amendment will raise taxes on other taxpayers.

—This amendment is broadly worded in order to cover any and all sorts of pollution control facilities, regardle their effectiveness.

The industries who will benefit from the property tax break provided in this proposed amendment have already written off the cost of the equipment purchased as a federal income tax deduction.

When you and I pay for a smog prevention device on our automobiles with our own money, we don't get either a federal tax deduction or a reduction in our auto license in lieu property tax. Why should industry receive both these benefits when we don't receive either!

VOTE NO!

JOHN F. DUNLAP
Assemblyman, 5th District
CHARLES WARREN
Assemblyman, 56th District
JOHN L. BURTON
Assemblyman, 20th District

Rebuttal to Argument Against Proposition 8

False arguments are being used by the opposition to confuse the public regarding Proposition 8.

The opponents' argument is the same collection of mis-statements rejected by their fellow Assemblymen when they approved Proposition 8 by a vote of 56 to 12.

The passage of Proposition 8 does n duce anyone's taxes. Proposition 8 m permits future legislation to be passed concerning anti-pollution equipment. However, those future laws will apply only to equipment which cleans air and water or reduces noise to government set standards.

Proposition 8 will apply to the sources of pollution. The opponents' continued use of the phony examples of rugs, air conditioners with filters, etc., is part of their effort to confuse the public.

While the opponents of Proposition 8 may believe the fight against pollution is a mistake, there is no basis to their belief that Proposition 8 will be mistakenly applied.

Only when polluters stop polluting, can the Legislature provide an exemption. This is the way Proposition 8 helps the fight against pollution.

The federal tax laws cited by the opponents concerning the pollution control equipment apply only to the buying of the equipment. Proposition 8 applies to the operation of such equipment after purchase.

Further, the opponents mis-state the tax law regarding automobiles. For example, the businessman pays the same tax rate on his vehicles with an anti-smog device as does everyone else.

We urge you to reject the false oppos arguments. Strengthen the fight agains lution. Vote YES on Proposition 8.

WALTER W. STIERN
State Senator, 18th District

BOND VOTE FOR STRUCTURALLY UNSAFE SCHOOL BUILDINGS. Legislative Constitutional Amendment. Permits approval by majority vote, rather than two-thirds vote, to pass bond issue for purpose of repairing, reconstructing, or replacing structurally unsafe public school buildings. Financial impact: No direct cost but increased use of bonded debt due to reduced requirement for voter approval is anticipated.	YES	
	NO	

(For Full Text of Measure, See Page 10, Part II)

General Analysis by the Legislative Counsel

A "Yes" vote on this legislative constitutional amendment is a vote to permit local entities to authorize, by a simple majority vote rather than two-thirds vote, general obligation bonds for the purpose of repairing, reconstructing, or replacing public school buildings determined to be structurally unsafe for school use.

A "No" vote is a vote to retain the present two-thirds vote requirement for authorization of such bonds.

For further details, see below.

Detailed Analysis by the Legislative Counsel

The Constitution **now** requires approval by two-thirds of the votes cast on the proposition by qualified electors of a county, city, town, township, board of education, or school district, before any such governmental entity may incur an indebtedness for any purpose, when the indebtedness exceeds its income and revenue for the year.

This measure would amend the Constitution to reduce, from two-thirds to a simple majority, the vote of the electors required to approve the proposition to issue and sell general obligation bonds when the bonds are to be issued for the purpose of repairing, reconstructing or replacing public school buildings which have been determined, in the manner prescribed by law, to be structurally unsafe for school use.

Statutes Contingent Upon Adoption of Above Measure

The text of Chapter 426 of the Statutes of 1972, portions of which were enacted to become operative if and when the above amendment is approved, is on record in the office of the Secretary of State in Sacramento and will be contained in the 1972 published statutes. A digest of that chapter is as follows:

Permits school district bonds to be issued upon approval of simple majority, rather than two-thirds, of votes cast in case of bonds proposed for purpose of repairing, reconstructing, or replacing a school building in compliance with so-called Field Act.

Cost Analysis by the Legislative Analyst

The state constitution permits school districts to issue general obligation bonds for the construction and repair of school buildings with the approval of two-thirds of the participating voters. To prevent excessive debt, the total amount of outstanding school bonds may not exceed an amount equivalent to five percent of a district's assessed valuation.

This constitutional amendment would permit school districts to issue bonds with the approval of a majority rather than two-thirds of the voters in the case of bonds to be used for the repair or replacement of structurally unsafe school buildings. School bonds issued for any other purpose would continue to require the approval of two-thirds of those voting on the matter.

The Department of Education reports that approximately 1,600 school buildings in California do not meet earthquake safety requirements. Most of these buildings are in urban areas such as Los Angeles, San Francisco, Oakland and San Diego. Under existing law, these buildings must be repaired or abandoned by June 30, 1975.

The total statewide cost of repairing or replacing unsafe school buildings is estimated to be $635 million. School districts must raise this money through local override taxes, through local bond issues, or through state loans.

In the 1970–71 fiscal year, school districts held elections on a total of approximately $450 million in bond issues for the repair or replacement of unsafe school buildings. Of this amount approximately $50 million received the necessary two-thirds vote of approval. Another $50 million failed to receive even a simple majority vote. The remaining $350 million received a majority vote ranging between one-half and two-thirds and therefore would have been approved by the voters had this proposed amendment been in effect. For this reason, if this constitutional amendment is adopted, it can be anticipated that a substantial portion of the money needed by school districts for the repair or replacement of unsafe school buildings would again be proposed to the voters. Local debt so approved by the voters (plus interest) would be repaid by school districts over a 20-year period from revenue raised by local taxes.

School districts could also apply for a state loan to repair or replace unsafe school buildings. The state is authorized to lend ap-

(Continued on page 24, column 2)

Argument in Favor of Proposition 9

A YES vote on Proposition 9 is required in order to guarantee the safety of California's school children. Voting in favor of this measure will allow California's school districts to meet the legislative mandate that all school buildings in the state built 39 or more years ago be updated to current earthquake structural standards by 1975. The state requires our children to go to school. We cannot permit them to be housed in unsafe buildings.

Proposition 9 will allow a majority of the voters in a school district to determine whether bonds shall be voted for replacement of these old, unsafe buildings. Other school bond issues would not be affected.

Some 1,700 of these school buildings are in use in California. The students who almost daily are taught in them are in imminent danger of their lives and well-being in the event of an earthquake.

Time and time again voters in local school districts have given a majority vote to these issues, but proponents have not been able to gather the necessary two-thirds majority.

It is our contention that the safety of our school children is such an urgent priority that it dictates lowering the vote requirement to a simple majority.

It is important to point out that the bond issue where the simple majority requirement will prevail is ONLY when replacement of older, earthquake-threatened buildings is involved. School bonds for any construction purpose other than replacing unsafe schools will still require a two-thirds vote.

Without allowing school districts to replace unsafe schools by July of 1975 many buildings will simply be abandoned. There is no other alternative. Inability of school districts to replace unsafe buildings will result in a great number of students being transported to overcrowded or double session schools.

But above all else is the fact that the very lives of California school children are endangered by the buildings in which they learn. Millions of dollars are spent daily to educate these children—while their safety is ignored.

California has a stark history of earthquakes. Fortunately, all major earthquakes in California have occurred when school was not in session.

In effect, to overlook the problem is to play a grim game of Russian Roulette with the lives of our young.

The voters of this state have a chance NOW to bring our schools up to date structurally with a YES vote on Proposition 9.

GEORGE R. MOSCONE
State Senator, 10th District

WILSON RILES
State Superintendent of
Public Instruction

LEROY GREENE
Assemblyman, 3rd District

Cost Analysis by the Legislative Analyst

(Continued from page 23, column 2)

proximately $310 million on a matching l for such purposes. However, school distr might not desire to borrow state money, for when a school district borrows from the state it becomes subject to state regulations (1) prescribing maximum classroom size and cost per square foot, and (2) placing strict limits on the use of the borrowed funds for nonclassroom construction.

Rebuttal to Argument in Favor of Proposition 9

A vote for Proposition 9 is NOT required to guarantee school children safety. Proposition 9 is only one method to replace earthquake prone schools—the method which will make it easier to increase your property taxes by circumventing a constitutional protection against long term debt upheld by the U.S. Supreme Court.

Actually, the Legislature and the people through the approval of Proposition 2 on the June 1972 ballot, and through legislation have provided a means of replacing 60 to 65 percent of earthquake prone schools. Because of dropping enrollments in schools in many districts, numbers of such schools will not require replacement.

Those who support Proposition 9 would attempt to make this entirely a matter emotion. While it is true that a child att ing an older school building is exposed to some risk of earthquake, children attending all schools are exposed to some risk. If we were to totally eliminate risk to school children, we would not permit any bussing because of the potential accident hazard, or might ever prohibit walking to school where dangers also exist.

The real question is to measure the problem and to determine how to solve it. Making it easier to increase your property tax is not the solution in the face of property taxes that are already too high.

Do not yield one of the few constitutional protections that you have against higher property taxes. Do not create this loophole which will be used as a precedent for others in the future. Vote NO on Proposition 9.

CLARK L. BRADLEY
State Senator, 14th District

Argument Against Proposition 9

Proposition No. 9 amends Section 40 of Article XIII of the Constitution to reduce the two-thirds bond vote requirement to a simple majority requirement for school construction only and only to replace buildings now structurally unsafe for school use. The issue is directed primarily to the need to rep earthquake prone structures, most of w were constructed prior to 1933.

I do not contest the need to replace some earthquake prone schools but I do protest

sole reliance on the property tax for this purpose. Proposition No. 9 by easing the pas- of school bond issues places such sole en on the property tax since school bonds are 100% repayable from the property tax.

Proposition 2, which passed on the June 1972 ballot, provides funds from other than property tax sources, i.e., a fund of $250 million dollars to be matched in stipulated amounts from local resources, specifically for the replacement of earthquake prone schools. The State Allocation Board has estimated that this will take care of 60 to 65% of the school replacement required in California and priority allocations will be made. If the funds provided by Proposition 2 are exhausted, some similar alternative to the property tax should be developed and used for this purpose.

There are outstanding in California today a total of 4.7 billion dollars of school district bonds—approved in each case by two-thirds of the voters of the local districts. The average property tax rate in the past 15 years has risen from $6.72 to $11.43, and if the trend continues in the next 15 years, the average will reach $22.75.

This proposal sets a bad precedent.

A "No" vote is recommended on Proposition No. 9.

CLARK L. BRADLEY
State Senator, 14th District

Rebuttal to Argument Against Proposition 9

The issue is a simple one. More than 1,500 unsafe school buildings in California will have to be abandoned or made safe by mid-1975 if they are not brought up to earthquake resistant standards. The children in many of these buildings will be transported elsewhere, creating educational chaos for them and their parents.

We agree with Senator Bradley that the state has made $250-million available to local school districts, but that money is "to be matched in stipulated amounts from local resources." The problem, of course, is that local school districts cannot qualify for the state's matching funds unless the district can vote its own bond funds.

We are asking a local vote—by simple majority—to get the necessary matching money. There is no other alternative to school districts for replacing these older school buildings. The payments would be spread out over the lifetime of the buildings.

Proponents of Proposition 9 are simply asking that in the situation where the lives and safety of school children are at stake, and ONLY in that situation, the vote requirement for safe schools be a simple majority.

To fail to give a majority of local voters the option to protect their children is an abdication of the democratic process.

GEORGE R. MOSCONE
State Senator, 10th District
WILSON RILES
State Superintendent of Public Instruction
LEROY GREENE
Assemblyman, 3rd District

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10 BLIND VETERANS TAX EXEMPTION. Legislative Constitutional Amendment. Permits Legislature to increase property tax exemption from $5,000 to $10,000 for veterans who are blind due to service-connected disabilities. Financial impact: Nominal decrease in local government revenues.

YES	
NO	

(For Full Text of Measure, See Page 11, Part II)

General Analysis by the Legislative Counsel

A "Yes" vote on this legislative constitutional amendment is a vote to authorize the Legislature to exempt the homes of blind California veterans from property taxation to the amount of $10,000, rather than $5,000.

A "No" vote is a vote against increasing this authorized exemption from $5,000 to $10,000.

For further details, see below.

Detailed Analysis by the Legislative Counsel

This measure would authorize the Legis- e to increase the amount of the exemp- for homes of California blind veterans,

(Continued on page 26, column 1)

Cost Analysis by the Legislative Analyst

This amendment authorizes the Legislature to increase the blind veterans' property tax exemption from the current maximum of $5,000 to $10,000. If this authority is implemented by enabling legislation, it would result in an unestimate , but nominal, reduction in local assessed valuation, for which local governments wou d not be reimbursed. The number of eligible California veterans is estimated at about 300.

Detailed Analysis by the Legislative Counsel

(Continued from page 25, column 1)

who qualify under the law, from a maximum of $5,000 to a maximum of $10,000. A "blind veteran" is defined as one who is blind in both eyes with a visual acuity of 5/200 or less by reason of a permanent and total service-connected disability incurred in the service.

Conflicting Measures

The authority granted by this measure would conflict with the limitations proposed by Proposition 14. If both are approved the one receiving the highest vote will prevail.

Statutes Contingent Upon Adoption of Above Measure

If this measure is approved by the vc Chapter 533 of the Statutes of 1972 amend Section 205.7 of the Revenue and Taxation Code to grant the exemption for the homes of blind veterans in the amount of $10,000, rather than $5,000. Chapter 533 does not amend Section 205.8 of the Revenue and Taxation Code, and the exemption for homes of blind veterans owned by corporations will remain at $5,000.

The text of Chapter 533 of the Statutes of 1972 is on record in the office of the Secretary of State in Sacramento and will be contained in the 1972 published statutes.

Argument in Favor of Proposition 10

Proposition No. 10 amends Section 1¼b of Article XIII of the Constitution (Taxation) to increase the maximum property tax exemption for permanent and total service-connected blind veterans from $5,000 to $10,000.

The present section providing exemption for blind veterans was added to the State Constitution in 1966 (Proposition 9). Ballot arguments indicated the purpose of the addition was to bring blind veterans' exemption in line with paraplegic veterans' exemption. Arguments pointed out that only about 40 persons would benefit from the $5,000 exemption.

A 1970 amendment extended the exemption to blind veterans who live in cooperative housing projects. It also raised the exemption for paraplegics to $10,000. Proposition No. 10 once again seeks to conform the two exemptions so that blind veterans will receive the same $10,000 exemption accorded paraplegics.

The Board of Equalization estimates that today about 1,000 veterans take advantage of the paraplegic exemption and blind exemption.

We urge a favorable vote on this Proposition.

CLARK L. BRADLEY
State Senator, 14th District
JOHN STULL
Assemblyman, 80th Dis

11 **RIGHT OF PRIVACY. Legislative Constitutional Amendment.** Adds right of privacy to inalienable rights of people. Financial impact: None.

YES	
NO	

(For Full Text of Measure, See Page 11, Part II)

General Analysis by the Legislative Counsel

A "Yes" vote on this legislative constitutional amendment is a vote to amend the Constitution to include the right of privacy among the inalienable rights set forth therein.

A "No" vote is a vote against specifying the right of privacy as an inalienable right.

For further details, see below.

Detailed Analysis by the Legislative Counsel

The Constitution **now** provides that all men are by nature free and independent, and have certain inalienable rights, among which

(Continued in column 2)

Cost Analysis by the Legislative Analyst

The right to privacy, which this initiative adds to other existing enumerated constitutional rights, does not involve any significant fiscal considerations.

(Continued from column 1)

are those of enjoying and defending life and liberty; acquiring, possessing, and protecting property; and pursuing and obtaining safety and happiness.

This measure, if adopted, would revise the language of this section to list the right of privacy as one of the inalienable rights. It would also make a technical nonsubstantive change in that the reference to "men" in the section would be changed to "people."

Argument in Favor of Proposition 11

The proliferation of government snooping and data collecting is threatening to destroy our traditional freedoms. Government agencies seem to be competing to compile the most extensive sets of dossiers of American citizens. Computerization of records makes it possible to create "cradle-to-grave" profiles on every American.

At present there are no effective restraints on the information activities of govern and business. This amendment creates a and enforceable right of privacy for every Californian.

The right of privacy is the right to be left alone. It is a fundamental and compelling
·est. It protects our homes, our families,
thoughts, our emotions, our expressions, our personalities, our freedom of communion, and our freedom to associate with the people we choose. It prevents government and business interests from collecting and stockpiling unnecessary information about us and from misusing information gathered for one purpose in order to serve other purposes or to embarrass us.

Fundamental to our privacy is the ability to control circulation of personal information. This is essential to social relationships and personal freedom. The proliferation of government and business records over which we have no control limits our ability to control our personal lives. Often we do not know that these records even exist and we are certainly unable to determine who has access to them.

Even more dangerous is the loss of control over the accuracy of government and business records on individuals. Obviously, if the person is unaware of the record, he or she cannot review the file and correct inevitable mistakes. Even if the existence of this information is known, few government agencies or private businesses permit individuals to review their files and correct errors.

The average citizen also does not have con-
over what information is collected about
Much is secretly collected. We are required to report some information, regardless of our wishes for privacy or our belief that there is no public need for the information. Each time we apply for a credit card or a life insurance policy, file a tax return, interview for a job, or get a drivers' license, a dossier is opened and an informational profile is sketched. Modern technology is capable of monitoring, centralizing and computerizing this information which eliminates any possibility of individual privacy.

The right of privacy is an important American heritage and essential to the fundamental rights guaranteed by the First, Third, Fourth, Fifth and Ninth Amendments to the U.S. Constitution. This right should be abridged only when there is compelling public need. Some information may remain as designated public records but only when the availability of such information is clearly in the public interest.

Proposition 11 also guarantees that the right of privacy and our other constitutional freedoms extend to all persons by amending Article I and substituting the term "people" for "men". There should be no ambiguity about whether our constitutional freedoms are for every man, woman and child in this

KENNETH CORY
Assemblyman, 69th District
GEORGE R. MOSCONE
State Senator, 10th District

Rebuttal to Argument in Favor of Proposition 11

To say that there are at present no effective restraints on the information activities of government and business is simply untrue. In addition to literally hundreds of laws restricting what use can be made of information, every law student knows that the courts have long protected privacy as one of the rights of our citizens.

Certainly, when we apply for credit cards, life insurance policies, drivers' licenses, file tax returns or give business interviews, it is absolutely essential that we furnish certain personal information. Proposition 11 does not mean that we will no longer have to furnish it and provides no protection as to the use of the information that the Legislature cannot give if it so desires.

What Proposition 11 can and will do is to make far more difficult what is already difficult enough under present law, investigating and finding out whether persons receiving aid from various government programs are truly needy or merely using welfare to augment their income.

Proposition 11 can only be an open invitation to welfare fraud and tax evasion and for this reason should be defeated.

JAMES E. WHETMORE
State Senator, 35th District

Argument Against Proposition 11

Proposition 11, which adds the word "privacy" to a list of "inalienable rights" already enumerated in the Constitution, should be defeated for several reasons.

To begin with, the present Constitution states that there are certain inalienable rights "among which are those" that it lists. Thus, our Constitution does not attempt to list all of the inalienable rights nor as a practical matter, could it do so. It has always been recognized by the law and the courts that privacy is one of the rights we have, particularly in the enjoyment of home and personal activities. So, in the first place, the amendment is completely unnecessary.

For many years it has been agreed by scholars and attorneys that it would be advantageous to remove much unnecessary wordage from the Constitution, and at present we are spending a great deal of money to finance a Constitution Revision Commission which is working to do this. Its work presently is incomplete and we should not begin to lengthen our Constitution and to amend it piecemeal until at least the Commission has had a chance to finish its work.

The most important reason why this amendment should be defeated, however, lies in an area where possibly privacy should not be completely guaranteed. Most government welfare programs are an attempt by California's more fortunate citizens to assist those who are less fortunate; thus, today, millions of persons are the beneficiaries

of government programs, based on the need of the recipient, which in turn can only be judged by his revealing his income, assets and general ability to provide for himself.

If a person on welfare has his privacy protected to the point where he need not reveal his assets and outside income, for example, how could it be determined whether he should be given welfare at all?

Suppose a person owned a house worth $100,000 and earned $50,000 a year from the operation of a business, but had his privacy protected to the point that he did not have to reveal any of this, and thus qualified for and received welfare payments. Would this be fair either to the taxpayers who pay for welfare or the truly needy who would be deprived of part of their grant because of what the wealthy person was receiving?

Our government is helping many people who really need and deserve the help. Making privacy an inalienable right could only bring chaos to all government benefit programs, thus depriving all of us, including those who need the help most.

And so because it is unnecessary, interferes with the work presently being done by the Constitution Revision Commission and would emasculate all government programs based on recipient need, I urge a "no" vote on Proposition 11.

JAMES E. WHETMORE
State Senator, 35th District

Rebuttal to Argument Against Proposition 11

The right to privacy is much more "unnecessary wordage". It is fundamental in any free society. Privacy is not now guaranteed by our State Constitution. This simple amendment will extend various court decisions on privacy to insure protection of our basic rights.

The work of the Constitution Revision Commission cannot be destroyed by adding two words to the State Constitution. The Legislature actually followed the Commission's guidelines in drafting Proposition 11 by keeping the change simple and to the point. Of all the proposed constitutional amendments before you, this is the simplest, the most understandable, and one of the most important.

The right to privacy will not destroy welfare nor undermine any important government program. It is limited by "compelling public necessity" and the public's need to know. Proposition 11 will not prevent the government from collecting any information it legitimately needs. It will only prevent misuse of this information for unauthorized purposes and preclude the collection of extraneous or frivolous information.

KENNETH CORY
Assemblyman, 69th Distr.

12 DISABLED VETERANS TAX EXEMPTION. Legislative Constitutional Amendment.

Permits Legislature to extend disabled veterans tax exemption to totally disabled persons suffering service-connected loss of both arms, loss of arm and leg, or blindness in both eyes and loss of either arm or leg. Extends exemption to either surviving spouse. Financial impact: Nominal decrease in local government revenues.

YES	
NO	

(For Full Text of Measure, See Page 11, Part II)

General Analysis by the Legislative Counsel

A "Yes" vote on this legislative constitutional amendment is a vote to authorize the Legislature to exempt from property taxation, up to $10,000 of the value of homes of qualified veterans (1) who have lost, or lost the use of, both arms; or (2) are blind and have lost, or lost the use of, one leg or one arm; or (3) have lost, or lost the use of, one arm and one leg.

A "No" vote is a vote to continue the authorization only as to homes of veterans who have lost, or lost the use of, both legs.

For further details, see below.

Detailed Analysis by the Legislative Counsel

The Constitution **now** authorizes the Legislature to exempt up to $10,000 of the assessed value of the home of each qualified

(Continued on page 29, column 1)

Cost Analysis by the Legislative Analyst

The California Constitution presently authorizes the Legislature to exempt from property taxation the home of any resident of this state who, as a result of military or naval service, has lost the use of both legs. The constitution limits this exemption to a maximum of $10,000 of assessed value and restricts the exemption to veterans who have received assistance from the federal government in the acquisition of a home. This exemption for disabled veterans—unlike the $1,000 exemption for other veterans—is available regardless of the amount of the claimant's assets.

This constitutional amendment authorizes the Legislature to extend this $10,000 exemption to the following:

(1) Veterans who have lost the use of both arms.

(Continued on page 29, column 2)

Detailed Analysis by the Legislative Counsel

(Continued from page 28, column 1)

California veteran who by reason of permanent and total service-connected disability incurred in the military or naval service has lost, or lost the use of, both legs because of amputation, ankylosis, progressive muscular dystrophies, or paralysis.

This measure would authorize the Legislature to exempt, in addition, up to $10,000 of the assessed value of the home of a qualified California veteran in the following circumstances:

1. In cases where, by reason of permanent and total service-connected disability, an individual has suffered the loss, or loss of use, of both arms as the result of amputation, ankylosis, progressive muscular dystrophies, or paralysis.

2. In cases where, by reason of permanent and total service-connected disability, an individual is blind in both eyes with a visual acuity of 5/200 or less and has suffered the loss, or loss of use, of one arm or one leg as the result of amputation, ankylosis, progressive muscular dystrophies, or paralysis.

3. In cases where, by reason of permanent and total service-connected disability, an individual has suffered the loss, or loss of use, of both an arm and a leg as a result of amputation, ankylosis, progressive muscular dystrophies, or paralysis.

The Legislature would also be authorized to extend the exemption to the homes of surviving husbands, as well as to surviving wives, of deceased disabled veterans, until such time as the surviving husband or wife remarries.

Conflicting Measures

The authority granted by this measure would conflict with the limitations proposed

(Continued in column 2)

Cost Analysis by the Legislative Analyst

(Continued from page 28, column 2)

(2) Veterans who are blind in both eyes and who have lost the use of either an arm or a leg.

(3) Veterans who have lost the use of both an arm and a leg.

The amendment continues the requirement that the exemption be granted only to veterans who became disabled as a result of military or naval service.

The number of persons eligible for this exemption is about 700. If the amendment is adopted and the Legislature enacts implementing legislation, the exemption will cause a small decrease in the assessed value of property in jurisdictions in which a claimant's property is located and a small increase in the proportion of property taxes paid by taxpayers who do not receive this exemption. Because few exemptions will be claimed in any single jurisdiction, the revenue effect of the exemption will not be noticeable.

(Continued from column 1)

in Proposition No. 14. If both are approved the one receiving the highest vote will prevail.

Statutes Contingent Upon Adoption of Above Measure

If this measure is approved by the voters, Chapter 899 of the Statutes of 1972 will amend Section 205.5 of the Revenue and Taxation Code. The text of Chapter 899 of the Statutes of 1972 is on record in the office of the Secretary of State in Sacramento and will be contained in the 1972 published statutes. A digest of that chapter is as follows:

Grants the $10,000 exemption for the homes of all the above-described veterans and their surviving spouses.

Argument in Favor of Proposition 12

Your vote for Proposition 12 will extend to severely disabled veterans a tax exemption in recognition of their great personal sacrifices.

There are striking inequities in the present constitutional provisions concerning our disabled veterans. Proposition 12 will help correct these inequities.

Under present law, a veteran who has lost both of his legs may qualify for a $10,000 tax exemption on his home, but one who has lost an arm and a leg is treated as though he is not disabled. The same treatment is also accorded the person who returns from the service with both arms missing. The blinded veteran may qualify for a $5,000 exemption but no additional consideration is given him if he has also lost an arm or a

For many years the State of California has recognized the sacrifices made by the veteran who returns from war. He receives assistance from the State in purchase of a home, in continuing his education, and in the often difficult job of readjusting to civilian life. Our Constitution also provides for a property tax exemption for all veterans until they reach a certain level of property ownership. However, regardless of the efforts made to rehabilitate the severely disabled, there is no doubt that their earning capacity has been severely curtailed. Under these circumstances it seems harsh indeed to demand their full payment of property tax.

By voting for Proposition 12, you will extend the $10,000 exemption to blinded veterans who have lost an arm or a leg and to veterans who have lost an arm and a leg, or who have been deprived of both arms.

You can help these courageous citizens in their uphill fight to reestablish themselves as contributing members of our society. Your vote for Proposition 12 will convince our disabled veterans that we do care and that we do appreciate the personal sacrifices they have made on our behalf.

JOHN W. HOLMDAHL
State Senator, 8th District
MARCH K. FONG
Assemblywoman, 15th District

13 **WORKMEN'S COMPENSATION. Legislative Constitutional Amendment.** Gives Legislature power to provide for payment of workmen's compensation award to state on death, arising out of and in course of employment, of employee without dependents. Permits such awards to be used for extra subsequent injury compensation. Financial impact: If implemented, would decrease state costs approximately $1,800,000 per year.

YES	
NO	

(For Full Text of Measure, See Page 12, Part II)

General Analysis by the Legislative Counsel

A "Yes" vote on this legislative constitutional amendment is a vote to grant the Legislature the power to provide for the payment to the state of workmen's compensation awards on the death of employees injured in the course of their employment who have no dependents, and to permit such awards to be used to pay extra compensation for "subsequent injuries," which is now paid from the General Fund.

A "No" vote is a vote against such proposal.

For further details, see below.

Detailed Analysis by the Legislative Counsel

The Constitution **now** authorizes the Legislature to enact a complete system of workmen's compensation. Generally, under the present system, an employee is compensated for an industrially-caused injury. An award is made to his surviving dependents in case of death resulting from such injuries; but no award is payable if he has no surviving dependents.

As a part of this present system, General Fund money is appropriated to pay additional workmen's compensation for "subsequent injuries," that is, payments to an employee with a pre-existing partial permanent disability who thereafter sustains an industrially-caused partial permanent disability. The additional payment is for that portion of the combined disability in excess of the percentage attributable to the later injury for which the employer is liable.

However, the Constitution does not permit the Legislature to require that funds of one employer be used to pay compensation to employees of another employer.

This measure would permit the Legislature to require that on the industrially-caused death of an employee who leaves no surviving dependents, the employer shall pay a death benefit to the state to be used for payments of additional compensation to workmen, including those not employed by such employer, for "subsequent injuries."

Cost Analysis by the Legislative Analyst

Present California state law provides that an employee who is disabled by an injury arising "out of and in the course of" his employment is entitled to workmen's compensation benefits, including medical treatment, temporary disability payments, permanent disability compensation and a death benefit if the workman dies leaving dependent survivors. The amount of the weekly temporary and permanent disability benefit payments is based upon the severity of the disability. Where the injury causes death, the employer is liable for reasonable burial expenses not exceeding $1,000 and a death benefit of $25,000 for one dependent or $28,000 for surviving widow and one or more dependent minor children, payable in installments.

California law also provides that when a worker with a pre-existing permanent disability or impairment suffers a subsequent industrial injury resulting in a combined total permanent disability of 70 percent or more, the employer is responsible only for that degree of permanent disability arising from the subsequent injury. The balance of the disability benefit obligation is assumed by the Subsequent Injury Fund which is supported from the state's general tax revenues in the General Fund. State costs for this program have increased from $775,000 in 1964–65 to an estimated $2,000,000 in fiscal year 1972–73.

This constitutional amendment would permit the Legislature to require that when an employee dies as the result of an industrial injury and leaves no dependent heirs, the death benefit of $25,000 which otherwise would have been paid to a surviving dependent shall be paid to the state instead. Such payments would be used by the state to finance the workmen's compensation disability payments under the Subsequent Injuries program, and thereby eliminate or reduce the cost of this program to the General Fund.

The annual number of job-related deaths in California over the past six years has remained fairly constant at about 725. Approximately 10 percent of these persons leave no dependents. Thus, based on an estimated 72

(Continued on page 31, column 2)

Argument in Favor of Proposition 13

Proposition 13 amends our State Constitution to allow payment of Workmen's Compensation accidental death benefits to a state fund when the deceased employee has no dependents.

Under existing law the death benefits from Workmen's Compensation award, which normally are paid to legal heirs, are paid to no one if legal heirs cannot be found. A YES vote for Proposition 13 would allow the Legislature to enact laws which would require that such benefits be paid to a state fund when no legal heirs can be found. Twenty-six states now have similar state funds financed in this manner.

The state fund in California, called the Subsequent Injury Fund, pays workers who are hurt a second or third time the balance of the disability benefits not paid by their employer.

A YES vote on Proposition 13 would permit funding of subsequent injury claims through the insurance liability of the employer rather than by the State's General Fund.

A YES vote on Proposition 13 will allow the Subsequent Injury Fund to continue to help provide an incentive for employers to hire persons who have a permanent or partial disability or impairment.

Vote YES to protect the employee's rights under Workmen's Compensation and to guarantee sound financing for "subsequent injury disabilities."

Proposition 13 is a noncontroversial measure supported by both houses of the Legislature and is a completely nonpartisan measure as evidenced by the fact that there were no dissenting votes cast in either house.

Vote YES to update our State Constitution and to modernize our Workmen's Compensation law.

DONALD L. GRUNSKY
State Senator, 17th District
FRANK MURPHY, JR.
Assemblyman, 31st District

Cost Analysis by the Legislative Analyst

(Continued from page 30, column 2)

nondependency deaths per year, we estimate that this amendment would permit the state to realize savings of at least $1.8 million annually.

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14 **TAXATION. Initiative Constitutional Amendment.** Establishes ad valorem property tax rate limitations for all purposes except payment of designated types of debts and liabilities. Eliminates property tax for welfare purposes, limits property tax for education, and requires state funding of these functions from other taxes. Increases sales, use, cigarette, distilled spirits, and corporation taxes. Decreases state taxes on insurance companies and banks and local sales and use taxes. Requires severance tax on extraction of minerals and hydrocarbons. Requires two-thirds vote of Legislature to increase designated taxes. Restricts new exemptions from property tax to those approved by election. Financial impact: A net ascertainable decrease in revenues to state and local government in excess of $1,233,000,000 per year.

YES	
NO	

(For Full Text of Measure, See Page 13, Part II)

General Analysis by the Legislative Counsel

A "Yes" vote on this initiative constitutional amendment is a vote to limit ad valorem property taxes, to change various other taxes, and to revise the system for the financing of public education and social welfare services.

A "No" vote is a vote against the proposed changes.

For further details, see below.

Detailed Analysis by the Legislative Counsel

Generally, this measure would add, amend, and repeal various sections of the Constitution to revise provisions relating to taxation and the financing of public education and social welfare services. The total effect of measure would depend to some extent a statutes to be enacted by the Legislature to implement its provisions; however,

(Continued on page 32, column 1)

Cost Analysis by the Legislative Analyst

This initiative would have the following annual fiscal effects, based on 1973–74 estimates.

1. State costs would be increased by $2,226 million, state revenues would increase by $1,854 million, leaving a revenue gap of $372 million.
2. By repealing the new local sales tax for public transportation, city and county revenues would be reduced by $151 million.
3. Cities and counties would gain $61 million from the increase in the cigarette tax.
4. Local property taxes would be reduced by $3,201 million, or 43 percent. This reduction is composed of: (a) the $2,430 million shift in property tax costs to the state, offset by a $204 million re-

(Continued on page 32, column 2)

Detailed Analysis by the Legislative Counsel

(Continued from page 31, column 1)

the measure would establish limitations and guidelines described below **which would take effect on July 1, 1973**, except as otherwise indicated.

State Property Taxation

The measure would prohibit the state from imposing an ad valorem property tax (tax based on value) except when no other funds are available to pay debts or liabilities existing on July 1, 1973.

Local Property Taxation

Local property tax rates would be limited, subject to exceptions noted below, to the following amount on each $100 of assessed valuation:

1. For counties, $2. (See also, 4 below.)
2. For cities, $2.
3. For consolidated cities and counties, $4. (See also, 4 below.)
4. For counties and consolidated cities and counties, an **additional** $2 for schools, as described below.
5. For all special districts within a single county, a total of 50¢, which would be apportioned among the several districts if their combined budgets require more than this maximum.
6. For all special districts with territory in more than one county, a total of 50¢, which would be apportioned among the several districts if their combined budgets require more than this maximum.

Exceptions

The taxing agencies that exceeded the above limitations in the 1971–1972 fiscal year could use their 1971–1972 tax rates, exclusive of rates attributable to the costs of welfare, education, and indebtedness, through the 1976–1977 fiscal year. The limitations could also be exceeded to pay (a) debts existing on July 1, 1973, or (b) future debts for capital acquisitions or improvements approved by two-thirds of the voters voting on the proposition, or by two-thirds of the owners of property in uninhabited territory.

Education

For the support of the public schools, the state would be required to allocate annually to each county and city and county from the General Fund the difference between the amount realized from the $2 tax required of such county or city and county and $825 per pupil in average daily attendance in grades kindergarten through 12 in the preceding year. The Legislature could change the base amount of $825 at any time, but whatever base amount is established would be adjusted annually as the cost of living index changes. Unless the Legislature provided otherwise, the aggregate funds for schools in each county or city and county would be apportioned among the school dis-

(Continued on page 33, column 1)

Cost Analysis by the Legislative Analyst

(Continued from page 31, column 2)

duction in state reimbursements property tax relief, for a net state increase of $2,226 million, plus (b) a $771 million reduction in local school support, described below.

The principal reasons for the increases in state costs are the changes in financing local schools, community colleges, social welfare, and Medi-Cal. Under existing law, state and local property tax support for local schools, grades kindergarten through 12, will average $995 per pupil in average daily attendance (ADA). This initiative requires the state to apportion $825 per ADA to each county, minus the amounts that will be raised from a new $2 county property tax, which is a substitute for the existing school district taxes. This change will shift part of the cost of supporting schools from the local property tax to the state, and we estimate the magnitude of this shift at $1,109 million. It also will result in a net reduction of $771 million in local educational expenditures because the $825 allowance is below the $995 level estimated to be expended under existing law. This $771 million reduction was not included in our estimates of additional state costs, because the initiative does not require the state to maintain the existing level of educational expenditures.

Property taxes no longer could be used to support the current operations of c munity colleges, child care or developn centers for handicapped minors, resulting in a $520 million increase in state costs. The counties' share of social welfare and Medi-Cal costs, i.e., $801 million, also would be shifted to the state.

The 43 percent reduction in property taxes would reduce state reimbursements for the homeowners' and business inventory exemptions, the senior citizen and open space property tax reimbursements programs, for a state savings of $204 million.

The $1,854 million increase in state revenue will result from the following tax changes mandated by this initiative:

1. State sales tax rate increase from 3.75 to 6 percent. This will produce $1,328 million in added revenue.
2. Cigarette tax rate increase from 10 to 20 cents per pack. This will add $143 million for state government, and $61 million for cities and counties.
3. Distilled spirits tax rate increase from $2 to $2.50 per gallon. This will add $26 million in state revenue.
4. Corporation franchise tax rate increase from 7.6 to 11 percent, adding $294 million in revenue.
5. State bank tax rate reduction from 11.6 to 11 percent. This will result in a $4 million revenue loss.
6. Elimination of the gross premiums on insurance companies and their prin-

(Continued on page 33, column 2)

Detailed Analysis by the Legislative Counsel

(Continued from page 32, column 1)

in the county or city and county by the board of supervisors.

Social Welfare

The levy of local property taxes for social welfare would be prohibited.

Household Furnishings and Personal Effects

All household furnishings and personal effects would be exempt from taxation.

Unsecured Property

Tax limitations for unsecured property would become operative on July 1, 1974.

Future Exemptions

All future exemptions or classifications resulting in reduced taxes on property would require voter approval at a statewide election.

Intent

The measure declares the intent to limit property taxes to 1.75 percent of market value for all purposes other than the payment of debts or liabilities. It further declares the intent that all of the costs of education (except as otherwise provided in the measure), and all of the costs of social welfare services, shall be funded by the state from other than property tax revenues.

Taxes on Banks and Corporations

sting constitutional provisions on taxing insurers would be repealed, and existing constitutional provisions on the taxation of banks and corporations would be revised by requiring the Legislature to provide for uniformly taxing banks, corporations, and insurers by any method not prohibited by the State or Federal Constitution or by federal laws. The franchise tax on banks and financial corporations would be 11, rather than 11.6, percent and on other corporations at 11, rather than 7.6, percent, commencing January 1, 1972. Commencing January 1, 1973, insurers would be included within the 11-percent franchise tax on their net income as determined under federal law. These rates could be changed by a two-thirds vote of the Legislature.

Existing constitutional restrictions prohibiting imposition of various state and local taxes on banks and insurers would be eliminated.

Income Taxes

Any changes in state income taxes to increase revenues would have to be enacted by a two-thirds, rather than a majority, vote of the Legislature. Changes decreasing the revenues could be enacted by a majority vote of the Legislature.

Sales and Use Taxes

state's sales and use taxes would be increased from 3¾ to 6 percent and county sales and use taxes would be decreased from

(Continued in column 2)

Cost Analysis by the Legislative Analyst

(Continued from page 32, column 2)

cipal office deductions. It substitutes a new 11 percent net income tax. This will produce a $150 million revenue loss. This estimate assumes that existing statutory provisions will be nullified by this constitutional change.

7. A new 7 percent severance tax on all minerals would produce $108 million in revenue gain.

The above changes in state and local property taxes will have the effect of reducing claimed itemized deductions on personal income and corporate franchise tax returns, resulting in a $109 million increase in state revenues.

This initiative imposes new property tax rate limits on cities, counties and special districts. Some of California's larger cities, such as Los Angeles, Oakland and Sacramento had 1971–72 property tax rates in excess of the proposed $2 limit. This measure provides that last year's rates shall be a temporary ceiling for the next four years, and thereafter they must be reduced to the $2 limit. The tax rate roll-back would occur in 1977–78, and involve a substantial but unknown reduction in property taxes. In some counties, such as Contra Costa, Sacramento and Orange, total property taxes for intracounty special districts probably exceeded the proposed $0.50 tax rate limit during 1971–72. These rates also would have to be reduced in 1977–78. We are unable to ascertain the impact of the proposed county property tax rate limits because there are uncertainties on how they shall be computed.

(Continued from column 1)

1¼ to 1 percent. Retail sales of prescription medicines and food products exempt from such tax on January 1, 1971, could not be taxed. The Legislature could increase sales and use tax rates by a two-thirds vote or decrease them by a majority vote. Under existing provisions the rates can be increased or decreased by a majority vote.

Cigarette Taxes

The tax on cigarettes would be increased from 10¢ a package to not less than 20¢ a package.

Liquor Taxes

The tax per gallon on distilled spirits would be increased from $2 to $2.50 on 100 proof or less, and from $4 to $5 on distilled spirits above 100 proof.

Severance Taxes

The state would have to impose a tax on persons extracting gas, oil, and other minerals, other than water and steam, from the earth at a rate equal to the combined rate of state and local sales taxes. A deduction from such tax would be allowed for property taxes on such minerals or mineral rights or prop-

(Continued on page 34, column 1)

Detailed Analysis by the Legislative Counsel

(Continued from page 33, column 2)

erty on which such minerals are produced or extracted paid in the preceding fiscal year.

Conflicting Measures

The provisions of this measure prohibiting future property tax exemptions without a

(Continued in column 2)

(Continued from column 1)

vote of the people conflict with the authorizations to the Legislature to exempt erty contained in Proposition No. 8, Proposition No. 10 and Proposition No. 12. If this measure and any of these other measures are approved, the measure receiving the higher vote, as between this measure and each of the others, will prevail in each case.

Argument in Favor of Proposition 14

Your YES vote on Proposition 14, the Watson Tax-Limit Amendment, will end a decade of frustration by reducing property taxes 40% and permanently limiting rates.

Your YES vote will:

—prohibit property taxes to pay for welfare costs.
—halt the constant increase in rents to meet ever rising property taxes.
—require voter approval of all future debt.
—guarantee high quality education for every child in accordance with our Supreme Court ruling.
—eliminate the Legislature's power to exempt special interests.
—prohibit property taxes on household furnishings and personal effects.
—eliminate tax exemptions currently held by banks and insurance companies.
—protect against sales and income tax increases by requiring a ⅔ vote of the State Legislature and prohibiting sales tax on food and medicine.
—finance government with a two cent increase in sales taxes; increase corporate income taxes by 55%; provide a small increase in alcohol and tobacco taxes; enact an oil severance tax.

The current system of property taxation desperately needs changing. Exorbitant property taxes have driven thousands from their homes. It prevents young people from buying homes of their own. It forces renters to live in less desirable housing. Excessive property taxes drives small business out and creates unemployment. It must be reduced.

Don't be frightened by prophets of doom hired by fat-cat special interests. California's government will not collapse. Ample alternative taxes are provided.

Schools will not be short-changed. A minimum of $825 per pupil is guaranteed—more than is provided today. The Legislature can provide more if needed but will not be able to raise property taxes to get it.

Your church and charities will not be taxed. Existing exemptions, except for banks and insurance companies (which have more exemptions than churches), will not be changed. However, beginning July 1, 1973, any further exemption or classification resulting in a lower tax must be approved by the voters.

This amendment does not favor big business. Proposition 14 requires equal taxation, prevents more special interest exemptions, and reduces total taxes for homeowners and renters.

Elected officials have promised reform for ten years. They have argued, bickered, and promised but have done nothing but raise your property taxes almost 300%;

and increased:

—sales taxes
—gasoline taxes
—personal income taxes
—cigarette taxes
—utility taxes

while exempting special interests such as:

—fishing boats
—business inventories
—harbor leases
—oil leases
—motion pictures
—wine and brandy
—race horses
—computer software

This is your last chance to lower your [illegible]e taxes and guarantee that taxes will not [illegible] you out when you retire. This amendment encourages young people to buy a home where taxes now discourage them. It finances government by taxes based on ability to pay. It serves notice on those who spend the people's money that the well is not bottomless and that the blank check is over. It may even force government to reduce its costs.

Your YES vote will benefit you and 20 million other Californians—young, middle-aged, old—homeowners and renters.

PHILIP E. WATSON
Assessor, Los Angeles County
JOSEPH B. CARNAHAN
President, California Real Estate Assoc.
ALLAN GRANT
President, California Farm Bureau Fed.

Rebuttal to Argument in Favor of Proposition 14

Whether you are a homeowner or renter, vote NO on Proposition 14.

It means higher taxes for everyone except land developers and speculators who will receive huge tax breaks if it is adopted.

This amendment will raise your sales taxes 40% and other taxes up to 100%.

Proponents claim this amendment will reduce property taxes.

• The Statewide Homeowners Assoc[illegible]on urges a NO vote because most property tax reduction will be delayed until 1977, and

there is no restriction on assessors who can c[illegible]nue to raise your taxes.

[illegible]ponents claim this amendment doesn't favor special interests.

- The Los Angeles Times says:

"A measure designed to produce huge tax savings for special interests at the expense of small homeowners and renters—the little guys—should not be written into the Constitution, particularly when a side effect could be chaos in government and even higher total taxes."

Proponents claim schools will not be shortchanged.

- The PTA says schools will lose over $700 million annually.
- California's Junior College Association states this amendment eliminates all funds for community colleges, which educate 850,000 young people annually.
- Firefighting and peace officers groups oppose this amendment because it will reduce funds for these vital protective services.

Proponents say you should not be frightened by what these public service organizations say. Don't be misled. Special interests financing the amendment will save $1 billion annually at the expense of wage earners, renters and homeowners.

If you are against higher taxes, if you sup[illegible]our schools, vote NO on Proposition 14.

DR. NORMAN TOPPING
Chairman, Californians Against Higher Taxes
Chancellor, University of Southern California

WILSON RILES
Superintendent of Public Instruction

MRS. WALTER SCHUILING
President, League of Women Voters

Argument Against Proposition 14

Proposition 14 means higher taxes for the average citizen. California needs tax reform, but not this proposition, which shifts the tax burden from large landowners to homeowners and renters. In addition, it cuts back vital funds for fire and police protection, schools, transit and other important government services.

Rate limits are no guarantee of tax relief. Under this amendment, assessors would retain the power to increase the market value of your home. This would wipe out any property tax savings in a few years.

HOMEOWNERS will pay increased consumer taxes and the promised property tax relief won't become effective in larger cities and counties until 1977. Increased consumer taxes, however, will begin immediately.

[illegible]NTERS are hard hit. They will have to pay increased taxes to fund the tax shift, but will receive no tax relief. Landlords receive property tax reductions, but are not required to pass on their savings to tenants.

SALES TAXES will go up 40%, and other consumer taxes are raised as much as 100%.

Even with these increases, the Legislative Analyst, California's nonpartisan fiscal expert, estimates a statewide deficit in excess of $1 billion. The average citizen will have to make up this deficit through a major increase in personal income taxes, plus new local taxes.

Among the few organizations supporting Proposition 14 are those representing large corporate farming interests and real estate speculators. Major landowning corporations, land developers, and wealthy landowning individuals will receive massive property tax reductions at the expense of lower and middle income homeowners and renters. Business and non-residential property accounts for over 70% of the property taxes, while single family homeowners pay only 27.5%.

Proposition 14 would damage our SCHOOLS and erode the quality of education in California. Public school support will be cut by $716 million, and local district control sacrificed. The Educational Congress of California, which includes the PTA, California Teachers Association, California School Boards Association, California Federation of Teachers AFL-CIO, and Association of California School Administrators has joined with the State Board of Education and hundreds of local school boards in strongly opposing Proposition 14.

The California Junior College Association is opposed. Funds for COMMUNITY COLLEGES, serving approximately 1,000,000 students, are eliminated and no replacement revenue is provided.

PUBLIC TRANSIT authorities throughout the state are opposed. Funds earmarked for expansion and urgently needed rapid transit development for urban centers will be wiped out. This would also increase fares and curtail service.

The California Firemen's Association urges a NO vote. Proposition 14 would cut back funds needed for the continuation of effective FIRE PROTECTION in many areas.

California Peace Officers' Association opposes it. Crime fighting efforts may be severely hampered by the cutback in funds for police protection.

In summary, Proposition 14 means an increase in taxes for the average citizen and tax breaks worth hundreds of millions of dollars for a few giant landowners. Every Californian will suffer from the reduction in essential public services. Protest this unfair shifting of the tax burden by voting NO on Proposition 14.

DR. NORMAN TOPPING
Chairman, Californians Against Higher Taxes
Chancellor, University of
Southern California

WILSON RILES
Superintendent of Public Instruction

MRS. WALTER SCHUILING
President, League of Women Voters

Rebuttal to Argument Against Proposition 14

The argument against the Watson Tax Limitation Initiative is customary "hog wash" by which politicians and special interests fight the overwhelming cry for property tax relief.

The major beneficiaries of the Tax Limitation proposal are home owners and renters—NOT large land owners.

The Department of Commerce flatly states 60.8% of California's "Locally Assessed Taxable Real Property" is residential. The major tax burden falls unfairly on home owners and renters!

Know the facts and vote "YES". The home owner will get a 40% tax cut. The renter will escape rents constantly escalating because of higher taxes.

Further, for tenants—the Rent Stabilization Board ruled that when expenses go down, including property taxes, rents must go down!

Nowhere do the opponents to the Watson Amendment admit the "special interest" loopholes. Examples: Insurance companies pay no State Income Tax on their apartment house complexes, stocks, bonds, etc. In effect, they pay no property tax on massive office buildings.

Oil companies pay no severance tax.

Banks pay no Vehicle Tax, Use Tax, or Personal Property Tax.

This Initiative will cancel these "special interest" exemptions.

The claim that this will raise your Income Tax is "poppycock!" It raises taxes on corporations by 44%. It leaves personal income taxes alone!

The cry that schools will suffer is "baloney." The initiative provides a minimum $825 in support per pupil, which is more money than the majority of the school districts now spend!

Close the tax loopholes! Put a ceiling on property taxes! Vote "YES."

PHILIP E. WATSON
Assessor, Los Angeles County

JOSEPH B. CARNAHAN
President, California Real Estate Assoc.

ALLAN GRANT
President, California Farm Bureau Federation

STATE EMPLOYEE SALARIES. Initiative Constitutional Amendment.

15

Requires State Personnel Board, University of California Regents, and State University and College Trustees semiannually to determine prevailing rates in private and public employment for services comparable to those performed by state employees, and recommend to Governor adjustments to state employee salaries and benefits necessary to equal prevailing rates. The recommendations must be included in Governor's budget, cannot be reduced or eliminated except by two-thirds vote of Legislature, and are not subject to Governor's veto. Provides for written agreements and arbitration between state and employees on other employer-employee relation matters. Financial impact: Indeterminable but potential major cost increase.

YES	
NO	

(For Full Text of Measure, See Page 19, Part II)

General Analysis by the Legislative Counsel

A "Yes" vote on this initiative constitutional amendment is a vote to include in the Constitution new procedures for establishing the salaries to be paid state employees and for regulating employer-employee relations between the state and its employees.

A "No" vote is a vote against amending the Constitution as proposed.

For further details, see below.

Detailed Analysis by the Legislative Counsel

This measure would apply to all employees and retired employees of the state, including the University of California and the California State University and Colleges, except persons elected by popular vote or appointed by the Governor. Specifically, it would provide as follows:

(Continued on page 37, column 1)

Cost Analysis by the Legislative Analyst

The increase in state cost from adoption of this initiative could vary greatly depending upon the extent to which increases in wage patterns as reflected in the salary recommendations exceed those which the state would fund otherwise. The initiative removes the existing power of the Governor to initially determine the budget amount and then, finally, to reduce or delete legislative appropriations for this purpose. It places control over the amount to be budgeted and appropriated in the State Personnel Board, the Regents of the University of California and the Board of Trustees of the State University and Colleges subject to their findings of salary comparability for their respective employees, and subject also to change of such amount by a two-thirds vote of the Legislature. For example, if this amendment had been in effect during the preparation of the

(Continued on page 37, column 2)

Detailed Analysis by the Legislative Counsel

(Continued from page 36, column 1)

ies

This measure would add to the Constitution a requirement that the State Personnel Board, the Regents of the University of California, and the Trustees of the California State University and Colleges determine semiannually the prevailing rates of compensation paid in private employment and public employment for services comparable to those performed by state employees under their jurisdiction.

The three agencies would then be required to report annually to the Governor the results of such determinations and to recommend the amounts of money, if any, necessary to adjust state employees' salaries and other benefits during the next fiscal year to equal the generally prevailing rates.

The Governor would be required to include such amounts, without change, in the budget submitted by him to the Legislature. In enacting the budget act, the Legislature could reduce these amounts only by a two-thirds vote of each house, and, if reduced, they could only be modified to apply uniformly to all classes of employees affected by the increase. The amount of funds included in the budget act by the Legislature would not be subject to reduction by the Governor.

loyer-Employee Relations

existing statutory law gives state employees the right to form, join, and partic-

(Continued in column 2)

Cost Analysis by the Legislative Analyst

(Continued from page 36, column 2)

1972–73 fiscal year budget, and if the Legislature had approved (and the Federal Pay Board had allowed) the salary increases as recommended by the State Personnel Board, Regents of the University of California, and Trustees of the California State University and Colleges, the estimated cost increase to the state would be $73,267,000.

Adoption of this initiative could require an increase in state cost in years that a salary increase recommendation would not be adopted otherwise.

(Continued from column 1)

ipate in employee organizations for the purpose of representing them in their relations with the state and requires the state, through its representatives, to meet and confer with such organizations on such matters. **This measure** would add a constitutional requirement that matters of employer-employee relations and the terms and conditions of employment, other than salaries and civil service matters otherwise controlled by the Constitution, would have to be resolved by written agreement between each appointing power and an organization representing a majority of the affected employees. It would further provide that disputes between the state and its employees would be settled by independent arbitration if requested by either party.

Argument in Favor of Proposition 15

For the first time in California's history, voters will have an opportunity to end the growing threat of work stoppages in such critical state services as law enforcement, education, health, hospitals, prisons, and conservation.

And, for the first time, voters can put a sensible lid on state employees salaries.

Right now, state employee morale is at an all-time low because of the denial of their basic rights. Work stoppages in any one of many critical areas would be catastrophic. Such things have happened in other states; they can happen here. Witness the frustration that led to the walkout by key State Department of Water Resources personnel last May.

Work stoppage or possible strikes will be ended by the State Pay Control Amendment through voluntary binding arbitration.

Secondly, the amendment will effectively limit state salaries so that only the average prevailing pay rates in the private sector—no more, no less—are paid. Thus, at one e, we can end political meddling with pay and prevent future runaway increases.

No tax increase is necessary to pay for adjustments. Ample funds are on hand. In fact, the state Legislative Analyst declared that he sees "no long-term fiscal effect" on state taxes because of this proposition.

Today's conditions in state employment have arisen because of crass meddling by a small group of selfish, powerful interests who put political advantage above fair play. These men are not above crippling our excellent civil service merit system and making California like some boss-ridden, corrupt eastern state or city where political henchmen dole out jobs as political favors.

Three times within the past three years modest salary adjustments for state workers—approved by the Legislature—have been callously vetoed. For the past six years scales have lagged up to 25% behind those in the private sector of the economy, despite a steady rise in living costs.

As a result, many of our best civil servants are leaving. Turnover is about 25% annually, a costly, wasteful process. In the long run, we are spending more than we are saving.

The State Pay Control Amendment will write into state law our present Governor's campaign pledge on state salaries and confirm state policy set forth in California's Government Code. For the first time, it will give state workers the right to collective bargaining, similar to rights now enjoyed by

civil servants in 21 other states.

Ample precedent exists. Similar parity pay laws have been tried and are working in Los Angeles city and county, Michigan, and among two million Federal employees.

California has always had the finest merit system in the United States. Let's keep it that way. Keep California in the forefront of employer-employee relations.

AVOID COSTLY WORK STOPPAGES! TAKE POLITICS OUT OF THE STATE PAYROLL! PUT A LID ON STATE SALARIES! MAKE PAY PARITY PART OF STATE LAW! GIVE STATE WORKERS THE SAME RIGHTS ENJOYED BY MILLIONS OF OTHERS!

VOTE "YES" ON STATE PAY CONTROL AMENDMENT NOVEMBER 7!

YVONNE BRATHWAITE
Assemblywoman, 63rd District
EDWIN L. Z'BERG
Assemblyman, 9th District
CORNELIUS G. DUTCHER
San Diego Business Leader

Rebuttal to Argument in Favor of Proposition 15

This amendment:

1. Will not put a "sensible lid" on State employee salaries and benefits; it would remove the only one we have. Mandating State employees' salaries as the Number 1 priority in the budget is an attempt to increase State employee salaries. It subverts the normal legislative-executive processes and bypasses present controls.
2. Will not eliminate strikes by State employees. Other public jurisdictions which have collective bargaining or "parity pay laws", such as New York, Michigan, and Los Angeles County, have continued to experience labor unrest.
3. Will not protect the merit system of employment in California government. The system of hiring through competitive examination is separate from the system for setting State employee salaries.

This amendment:

1. Will tie the hands of the Governor, who is the person elected by all the people of California. Forcing him to include employee salary increases irrespective of budgetary considerations and eliminating the right of veto over this very costly item will destroy the balance of power between the Executive and Legislative Branches.
2. Will give salary increases top priority in the allocation of State funds, irrespective of other pressing State needs. This potential change in priorities is serious, for every dollar expended for salary increases means potentially a dollar less for critical additional services.

State government is more than simply another employer. Deciding what salaries and benefits State employees receive should remain part of our legislative-executive budget-making process, not subverted with any sort of "formula" approach.

We strongly urge a NO vote on Proposition 15.

MRS. NITA ASHCRAFT, President
California State Personnel Board

STEPHEN P. TEALE
State Senator, 3rd District

FRANK LANTERMAN
Assemblyman, 47th District

Argument Against Proposition 15

Proposition 15 would automatically include each year proposed increases in salaries and benefits for employees of the State of California in the budget presented to the Legislature. It would remove a Governor entirely from participating in decisions on the amount of money to be made available for salary and benefit increases for State employees.

The proposed amendment violates basic constitutional concepts in our government. The Executive and Legislative Branches are designed to be equals in our form of government. Our government operates under a system of checks and balances that weighs competing interests in decisions on questions of public policy. This initiative would eliminate entirely the participation of the Executive Branch in the determination of salaries and benefits for State employees. Any Governor, who is the principal elected official in the State, who represents the entire State, and who is responsible for the administration of State Government, will have no voice in deciding these issues if this amendment succeeds.

Proposition 15 would make it impossible for a Governor to assess the priority of employees salaries and benefits in relation to other pressing needs. A Governor will have no voice in deciding what goes into the proposed State budget for salary increases and benefit increases for State employees despite the fact he is responsible for that budget.

Furthermore, this amendment would remove a Governor's ability to reduce or veto the salary increase and benefit increased portions of the budget. The veto power of the Chief Executive is one of the fundamental powers of the Executive Branch and is an integral part of our constitutional system. The constitutional system of checks and balances should not be eroded because one group does not agree with the results of the democratic process.

Proposition 15 also proposes collective bargaining for State employees including legislative and judicial employees. Collective bargaining for public employees should not be frozen into the Constitution. If such a system is to be provided, it would be better

to make it part of statutory law which can be more readily changed as conditions and experience dictate.

This proposed amendment also specifies binding arbitration as the only means of resolving disputes. Binding arbitration is not limited to the interpretation of the contractual agreement, it also may be invoked at the request of either party to govern the content of the contract. In collective bargaining what is in a contract should be negotiated, not determined by outside arbitration. Binding arbitration on the content of contracts is not typical of collective bargaining agreements generally and should certainly not be applicable in State public service.

Proposition 15 is poor public policy. We urge a NO vote on Proposition 15.

The California State Personnel Board unanimously supports this argument in opposition to Proposition 15.

MRS. NITA ASHCRAFT, President
California State Personnel Board
STEPHEN P. TEALE
State Senator, 3rd District
FRANK LANTERMAN
Assemblyman, 47th District

Rebuttal to Argument Against Proposition 15

The State Personnel Board is deliberately misleading Californians into voting against their own best interests.

Our constitutional system of checks and balances would be strengthened by passage of Proposition 15, not jeopardized, as the Board would have you believe.

The Board professes great concern with the Governor's right of veto, but shows complete indifference when its own pay recommendations, backed by the State Legislature, are cynically vetoed. In any event, the Governor retains executive control since he alone appoints all salary-setting board members.

Ample precedent exists for making state salaries a fixed part of the budget. More than 60 percent of the budget is not subject to the Governor's veto now. Proposition 15 is consistent with that practice.

Proposition 15 will not mean automatic pay hikes. Rates will be determined solely on average pay scales. If the economy takes a downturn, so would state salaries. At the same time, Proposition 15 prevents runaway pay hikes. It will protect you, the taxpayer.

Collective bargaining for public employees is already a reality in 21 states, the federal government, and all California cities and counties. The Personnel Board falsely states that binding arbitration is proposed as the only means of settling disputes. Arbitration is only one of several options, including mediation, negotiation, or consultation.

Proposition 15 means peaceful, equitable employer-employee relations, an end to crippling work stoppages, and fair play for taxpayers and 160,000 dedicated State employees.

Don't be fooled by misstatements or deception! VOTE YES ON PROPOSITION 15!

YVONNE BRATHWAITE
Assemblywoman, 63rd District
EDWIN L. Z'BERG
Assemblyman, 9th District
CORNELIUS G. DUTCHER
San Diego Business Leader

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16 **SALARIES. CALIFORNIA HIGHWAY PATROL. Initiative Constitutional Amendment.** Requires State Personnel Board to: (1) determine maximum salary for each class of policemen or deputy sheriff in each city and county within state, (2) adjust salaries of uniformed members of Highway Patrol to at least the maximum rate paid policemen or deputy sheriffs within comparable classes, and (3) report annually to Governor on its determinations and adjustments. Requires Governor to provide in budget for full implementation of these determinations and adjustments. These budget provisions can be modified or stricken only by two-thirds vote of Legislature voting solely on this issue. Financial impact: Indeterminable but potential major cost increase.

YES	
NO	

(For Full Text of Measure, See Page 19, Part II)

General Analysis by the Legislative Counsel

A "Yes" vote on this initiative constitutional amendment is a vote to establish a new procedure for determining the salaries to be paid uniformed members of the California Highway Patrol.

A "No" vote is a vote to not establish the procedure.

For further details, see below.

(Detailed analysis on page 40, column 1)

Cost Analysis by the Legislative Analyst

This initiative links the salaries of state highway patrolmen to current maximum salary rates of comparable classes or positions of local policemen or deputy sheriffs. The increase in state cost from adoption of this initiative could therefore vary greatly depending upon the extent to which the increases in salaries of the highest paid non-

(Continued on page 40, column 2)

Detailed Analysis by the Legislative Counsel

State law **now** provides that the State Personnel Board shall establish and adjust salary ranges on the principle that like salaries shall be paid for comparable duties and responsibilities, subject to the appropriation of funds by the Legislature.

This measure would amend the Constitution to provide a different procedure for setting salaries of the uniformed members of the California Highway Patrol. It would require the State Personnel Board to determine, at least semiannually, the current maximum rate of salary established by each city and by each county for each class of their policemen or deputy sheriffs. Commencing July 1, 1973, the State Personnel Board would be required annually to adjust the maximum rate of salary of each class of uniformed members of the California Highway Patrol to be at least equal to the maximum rate of salary for any policeman or deputy sheriff employed in a comparable class or position in the state.

The State Personnel Board would be required to report the required adjustments annually to the Governor. The Governor's annual budget for the 1973–1974 fiscal year

(Continued in column 2)

Cost Analysis by the Legislative Analyst

(Continued from page 39, column 2)

state policemen or deputy sheriffs in California (as reflected in the State Personnel Board's annual report to the Governor) exceed salary increases the state would fund otherwise for uniformed members of the California Highway Patrol. For example, if this amendment had been in effect during the preparation of the 1972–73 fiscal year budget and if the Legislature had approved (and the Federal Pay Board had allowed) the salary increases as reported by the State Personnel Board, the estimated cost increase to the state would be $12,642,000. At the present time, the Governor can reduce or veto any legislative appropriation for this purpose, subject then to a possible legislative override. We assume this initiative eliminates such Governor's reduction or veto.

Adoption of this initiative could require an increase in state cost in years that a salary increase recommendation would not otherwise be adopted.

(Continued from column 1)

and thereafter would be required to contain the amounts necessary to make these adjustments. These amounts could only be eliminated or modified by a two-thirds vote of each house of the Legislature.

Argument in Favor of Proposition 16

Your YES vote will provide a needed salary parity without an increase in taxes to the citizens of California.

Your Highway Patrol is supported by funds received from motor vehicle registration and license fees, a part of the Motor Vehicle Fund. This Fund annually generates enough revenue to finance this proposal and still leave a significant surplus.

This Proposition provides that an annual salary adjustment would be based on a periodic salary survey conducted by the State Personnel Board and approved, reduced or rejected by the Legislature as part of the annual Budget Act.

Your Highway Patrolmen are doing the job you expect of them. They are responsible for the safety of millions of people on more than 100,000 miles of surface streets and 3,500 miles of freeway whether the need is the delivery of a premature child, the capture of a dangerous felon, or emergency care for the sick or injured.

At least 48 other law enforcement agencies in California receive higher salaries than your Highway Patrol. The enactment of this proposed amendment to the constitution would insure that your Highway Patrol would be paid a salary at least equal to that paid other police officers who perform comparable duties.

Your YES vote will allow your Highway Patrol to continue to recruit the high quality candidate, retain his services while recognizing the excellence of his performance.

KENNETH B. ANDERSON
Sergeant, CHP,
President, Cal. Assn.
of Highway Patrolmen
RALPH L. SCHIAVONE
Executive Manager
Cal. Assn. of Highway Patrolmen

Rebuttal to Argument in Favor of Proposition 16

This proposal would require automatic submission in the Budget of salaries for Highway Patrol members equal to those of the highest city or county law enforcement officer in California. Typically, State salaries are computed on the basis of prevailing practice—the average—not the highest paid in the State.

Highway Patrolmen already received an 8½% salary increase in 1972–73, plus a new uniform allowance.

Had this proposal been in effect, the Budget submitted this year would have had to contain an additional 11½% in salary increases for Highway Patrolmen.

State Personnel Board figures show a high number of applicants for limited number of Highway Patrol positions. In the last e ination over 2,500 candidates competed 300 positions. The turnover rate for Highway Patrol members is 0.2%, compared with 1.3%

for all of State service. Clearly, there is no ...ious recruitment or retention problem in Highway Patrol.

This proposal would require additional expenditure of tax funds: motor vehicle license and registration taxes. These funds support a variety of essential programs and services:

—Air pollution;

—Traffic Control;

—Highway safety improvement;

—Local and statewide road improvements

Every dollar siphoned off for further salary increases cuts the amount available for these programs.

The automatic feature of this amendment would prevent a Governor, the elected Chief Executive, from submitting his complete budget to the Legislature and from controlling expenditures through the veto. Your NO vote also will allow your Legislature to exercise its responsibility for disbursing funds after considering all areas of need equally.

MRS. NITA ASHCRAFT, President
California State Personnel Board

STEPHEN P. TEALE
Senator, 3rd District

FRANK LANTERMAN
Assemblyman, 47th District

Argument Against Proposition 16

Proposition 16 would require that each year ... proposed State budget contain funds to automatically raise the salary of State Traffic Officers to match the highest salary paid to any policeman or deputy sheriff in the State. If enacted, the State could be forced to spend tax dollars to increase the salaries of the 5,500 highway patrolmen because of an action by a local government, large or small, anywhere in the State. Proposition 16 would contribute to the continuing escalation of the cost of government.

The Legislature would be prohibited from treating the salary for uniformed Highway Patrol members in the normal budgetary process. A special Legislative vote on only Highway Patrol salaries would be required. It would take a ⅔ majority of the Legislature to reduce the amount below that paid by any other jurisdiction in the State.

Proposition 16 would remove a Governor's ability to reduce or veto this item to protect the taxpayers' interests. The veto power of a Governor is one of the fundamental protections provided by the Executive Branch and is an integral part of our constitutional system.

The type of salary policy in Proposition 16 always leads to dissatisfaction and unrest among other groups of employees who do not receive the same favored treatment. Salaries for State employees, including State Traffic Officers, are established in relation to prevailing salaries in industries and local governments in California. This approach is generally accepted as fair and equitable to the employees, to the taxpayers and is a protection for private industry or local governments in the competition for the most qualified individuals.

This proposal is inconsistent with the fundamental concepts of our government and the proposition that the Elected Officials should decide questions of public policy. It erodes the constitutional system of checks and balances and gives special privileges to a small but visible group.

We urge a NO vote on Proposition 16 because it violates basic concepts in our form of government. It is unwarranted, unreasonable and inequitable.

The California State Personnel Board unanimously supports this argument in opposition to Proposition 16.

MRS. NITA ASHCRAFT, President
California State Personnel Board

STEPHEN P. TEALE
State Senator, 3rd District

FRANK LANTERMAN
Assemblyman, 47th District

Rebuttal to Argument Against Proposition 16

Government Code section 18850 states, in part, that the State Personnel Board shall establish and adjust salary ranges for each class of position in the state civil service. The salary range shall be based on the principle that like salaries shall be paid for comparable duties and responsibilities. This has not been done and this is exactly what Proposition 16 will accomplish. We urge your YES vote on Proposition 16.

KENNETH B. ANDERSON
Sergeant, CHP,
President, Cal. Assn.
of Highway Patrolmen

RALPH L. SCHIAVONE
Executive Manager
Cal. Assn. of Highway
Patrolmen

17 **DEATH PENALTY. Initiative Constitutional Amendment.** Amends California Constitution to provide that all state statutes in effect February 17, 1972 requiring, authorizing, imposing, or relating to death penalty are in full force and effect, subject to legislative amendment or repeal by statute, initiative or referendum; and that death penalty provided for under those state statutes shall not be deemed to be, or constitute, infliction of cruel or unusual punishments within meaning of California Constitution, article I, section 6, nor shall such punishment for such offenses be deemed to contravene any other provision of California Constitution. Financial impact: None.

YES	
NO	

(For Full Text of Measure, See Page 20, Part II)

General Analysis by the Legislative Counsel

A "Yes" vote on this initiative constitutional amendment is a vote to make effective, to the extent permissible under the United States Constitution, the statutes of this state requiring, authorizing, imposing, or relating to the death penalty; and to prohibit the death penalty from being deemed to be unconstitutional under any provision of the California Constitution.

A "No" vote is a vote to reject the proposal.

For further details, see below.

Detailed Analysis by the Legislative Counsel

The California statutes **now** contain numerous provisions which provide for imposition of the death penalty on persons convicted of certain crimes. The California Supreme Court has held that the imposition of the death penalty is prohibited by Section 6 of Article I of the California Constitution, which prohibits the infliction of cruel or unusual punishments.

Adoption of **this measure** would specifically prevent the provisions in Section 6 of Article I, or any other provision, of the California Constitution from being held to prohibit the death penalty.

(Continued in column 2)

Cost Analysis by the Legislative Analyst

The main purpose of this initiative is to maintain the statutory and constitutional authority for imposition of the death penalty as it existed prior to February 17, 1972. The adoption of this initiative does not involve any significant direct added state or local cost or revenue consideration.

(Continued from column 1)

If **this measure** is adopted, every statutory law of California relating to the death penalty that was rendered ineffective by the decision of the California Supreme Court would be reinstated (subject to amendment or repeal) insofar as their validity under the California Constitution is concerned Their validity under the United States C stitution, however, is a separate issue.

The United States Supreme Court has held that the United States Constitution bars imposition of the death penalty in certain criminal cases under statutes giving uncontrolled discretion to judges or juries to decide whether or not to impose the death penalty. The United States Supreme Court, however, did not hold that the United States Constitution precludes the imposition of the death penalty in all cases. This measure would, therefore, make effective the statutes of this state relating to the death penalty to the extent permitted under the United States Constitution.

Argument in Favor of Proposition 17

The California Supreme Court has ruled that the death penalty is unconstitutional under our state constitution. Proposition 17, if passed by the voters, will amend our state constitution and overturn the Court's decision.

It will also allow the Legislature to revise our laws so as to conform them to the United States Supreme Court decision authorizing the death penalty if certain guidelines are followed.

THE DEATH PENALTY IS AN EFFECTIVE DETERRENT TO SOME WOULD BE KILLERS. With this deterrent now eliminated, the lives of countless innocent people (especially law enforcement officers, prison guards, and prison inmates) have been placed in grave jeopardy.

CAPITAL PUNISHMENT IS AN APPROPRIATE PENALTY FOR CERTAIN CRIMES AND CRIMINALS. The 107 condemned persons on death row in California at the time of the Court's ruling were responsible for the deaths of 116 victims.

AND WHAT OF THESE VICTIMS? WHO WERE THEY; HOW DID THEY DIE? Some were helpless, aged persons . . . two young girls ages 13 and 9 . . . women assaulted, raped repeatedly and killed . . . many shot to death . . . a number stabbed . . . some beaten to death with a sledgehammer . . . all races, colors and creeds. Their killers showed no mercy, no compassion. The killed ruthlessly.

The death penalty is an appropriate punishment for the willful, deliberate, premeditated murder; the mass murderers such as Charles Manson and Richard Speck; the hired killers;

the assassins who would rob us of our proven political leaders; the traitors; the bombers and jackers; the senseless joy killers; the prison nates bent on escape at any cost and the cop-killers.

Our criminal legal system, with its overriding concern for the rights of the accused, insures a fair trial to every person charged with murder regardless of his wealth, education or race. The public provides competent defense counsel and all incidents of defense free of charge to those who cannot afford them.

Both common sense and experience teach us that the death penalty deters many potential murderers. IF THE DEATH PENALTY SAVES THE LIFE OF ONE POLICEMAN OR ONE PRISON INMATE OR ONE PRISON GUARD, OR ONE CHILD OR ONE PRIVATE CITIZEN, ITS EXISTENCE IS JUSTIFIED.

This proposition qualified for a place on this ballot because over one million Californians signed petitions in one of the most successful initiative drives in the history of California. They did this so that the people of this state would have the opportunity to vote on this critical issue.

We are faced with a question of the utmost gravity. The people of this state, rather than the Court, now have the opportunity to decide whether or not they need the death penalty for the protection of innocent citizens. cept that responsibility and vote YES on oposition 17.

GEORGE DEUKMEJIAN
(Republican—Long Beach)
State Senator, 37th District

S. C. MASTERSON
Judge, Superior Cour

JOHN W. HOLMDAHL
(Democrat—Oakland)
State Senator, 8th District

Rebuttal to Argument in Favor of Proposition 17

Proponents assert:

1. The death penalty deters murderers;
2. Since murderers show no mercy, we should show no mercy—"a life for a life";
3. Accused murderers always receive a fair trial, regardless of wealth, education or race.

THESE ASSERTIONS ARE FALSE OR MISLEADING.

1. Studies for 40 years show that murder rates for policemen, guards and private citizens are LOWER in states WITHOUT the death penalty.
2. All civilized people are horrified by the crimes described by proponents and grieve for the victims; but Manson, Speck, Sirhan and most other murderers and ALL such assassins commit their beastly crimes in states WITH the death penalty. WHERE WAS THE DETERRENCE? Since the death penalty has not protected us against murderers we have no excuse to adopt jungle law of "a life for a life". We must use other ways and not stoop to the murderer's level by killing in cold blood.
3. As good as it is, our system of justice is human. The innocent have been executed, but well-to-do, educated white men who have committed grisly murders are never executed.

Our founding fathers in their great wisdom assigned the courts the job of protecting our inalienable rights against discriminatory and abusive exercise of power. Yet this initiative would take away from the courts the power to protect the most important right—life. What other of our rights will be next?

Would you kill in cold blood? If not, don't ask others to do it for you. VOTE "NO" ON PROPOSITION 17.

EDMUND G. ("PAT") BROWN
Former Governor of California
(1959–1967)

ERWIN LORETZ, President
California Probation, Parole and
Correctional Association

BILL COSBY

Argument Against Proposition 17

Vote NO to the Death Penalty. California has not killed a human being since 1967. Do not cast your vote to start killing again. We must be concerned with preventing rather than revenging crime.

Killing is not the answer to the crime problem. Most civilized countries no longer use the death penalty. States and countries without the death penalty have the lowest murder rates. Forty years of studies show that the death penalty does not prevent murders or other violent crimes. In recent decades the rates of all crimes have increased, but since executions have stopped in the United States the increase in the murder rate has been only half as much as the increase for other serious crimes. Stopping executions has not led to more murders.

Most murders are committed in passion by people who do not think about penalties. In other cases, the death penalty causes murders. Recently, a girl killed two children because she wanted to die but was afraid to kill herself. Such suicide-murders are common. Political assassinations have occurred only in states which have the death penalty.

Dangerous criminals need not be killed to protect society. Capital punishment does not deter crime—increasing the liklihood of capture does. The death penalty aggravates the crime problem by wasting resources needed to fight crime. Long trials and appeals in death-penalty cases clog the courts so that other criminal offenders cannot be swiftly brought to justice. Death row requires large expendi-

tures that could be used instead to make the correctional system more effective in rehabilitating criminals.

It is cheaper to imprison a person for life than to execute him. The death penalty costs taxpayers millions of dollars yearly in court and death row expenses which could be better spent directly for increased police protection, safety of correctional officials and financial aid for the families of murdered victims.

It is not true that murderers imprisoned for life will soon be paroled. No murderer can be paroled unless the Parole Board is convinced that he is safe to release. If he is not rehabilitated, he is never paroled. We rely upon the good judgment of the Parole Board regarding hundreds of thousands of dangerous criminals, including those convicted of murder for whom the death penalty has not been imposed. Through legislation we can also provide for life imprisonment without possibility of parole.

The death penalty bloodies all of us. Human life is not sacred when the state sets an example of violence by executing someone simply because it seems a convenient disposal for the problem of crime. The decision to kill is made unequally because each jury is different with no specific standards to guide its decision. Some juries sentence men to die for crimes that other juries would punish with imprisonment. Defendants without money and racial minorities are far more likely to be executed.

Do not vote to take life this senseless way. Vote to respect life universally and to fight crime sensibly. Vote NO on the Death Penalty.

EDMUND G. ("PAT") BROWN
Former Governor of California
(1959–1967)
ERWIN LORETZ, President
California Probation, Parole and
Correctional Association
BILL COSBY

Rebuttal to Argument Against Proposition 17

A society that respects human life must protect the lives of its innocent citizens.

THE UNITED STATES SUPREME COURT HAS NOT PREVENTED CALIFORNIANS FROM REINSTATING THE DEATH PENALTY, but to do so, we must first overturn the decision of the California Supreme Court by voting yes on this Proposition.

Stopping executions has led to more killings. Since 1963, the courts have allowed only one execution (in 1967). During this period the homicide rate, which takes into account the growth in population, has increased 250%.

The fact that the death penalty does not deter all killers is no more a valid argument against its use than suggestion that all criminal laws be abolished because they do not deter all crime.

OTHER FACTS IN REBUTTAL:

- The sentence of life without parole is not permanent. The Legislature can change the law and a Governor can commute sentences. The median time served for those first degree murderers released in 1971 was 145 months.
- The death penalty is the law of the land for 95% of the world's population.
- Passion killings are not first degree murder and not subject to the death penalty.
- Responsibility for long trials and appeals lies with the courts—not with the death penalty.
- The facts prove that in California there no racist component in the unanimous decision by a jury to impose death.

This initiative is supported by the California Correctional Officers' Association, the California Peace Officers' Association, the District Attorneys' Association of California, and the California State Sheriffs' Association.

SAVE INNOCENT LIVES—VOTE YES ON PROPOSITION 17.

GEORGE DEUKMEJIAN
(Republican—Long Beach)
State Senator, 37th District
S. C. MASTERSON
Judge, Superior Court
JOHN W. HOLMDAHL
(Democrat—Oakland)
State Senator, 8th District

OBSCENITY LEGISLATION. Initiative. Amends, deletes, and adds Penal Code statutes relating to obscenity. Defines nudity, obscenities, sadomasochistic abuse, sexual conduct, sexual excitement and other related terms. Deletes "redeeming social importance" test. Limits "contemporary standards" test to local area. Creates misdemeanors for selling, showing, producing or distributing specified prohibited materials to adults or minors. Permits local governmental agencies to separately regulate these matters. Provides for county jail term and up to $10,000 fine for violations. Makes sixth conviction of specified misdemeanors a felony. Creates defenses and presumptions. Permits injunctions and seizures of materials. Requires speedy hearing and trial. Financial impact: None.

18

YES	
NO	

(For Full Text of Measure, See Page 20, Part II)

General Analysis by the Legislative Counsel

A "Yes" vote on this initiative statute relating to the regulation of obscenity is a vote to permit local regulation of obscenity; to revise the definition of the terms "obscene matter," "obscene live conduct," and "harmful matter"; provide additional criminal prohibitions and injunctive relief; and make provision for seizure and destruction.

A "No" vote is a vote to retain the present law relating to obscene and harmful matter and obscene live conduct.

For further details, see below.

Detailed Analysis by the Legislative Counsel

Obscenity is **now** regulated by state law regulation by cities and counties is permitted only where specifically authorized by state law. This measure would permit regulation of such matters by counties, cities, and political subdivisions.

State statutes **now** include, in the definition of the terms "obscene matter," "obscene live conduct," and "harmful matter," the requirement that the matter or conduct be viewed on a statewide basis to see whether, as a whole under contemporary standards, it predominantly appeals to a prurient interest. This measure would provide for a local test to determine whether it predominantly appeals to the prurient interest, that is, standards generally prevailing within the incorporated area in which the offense occurred, or, in case of an unincorporated area, within a 10-mile radius of the area where the offense occurred.

The terms "obscene matter," "obscene live conduct," and "harmful matter" are **now** defined, in a manner consistent with decisions of the United States and California Supreme Courts, to expressly require that matter or conduct be "as a whole, utterly without redeeming social importance" to be considered within the definitions. The effect of this change is uncertain in that it would remove this requirement from the statutory definitions.

The law **now** generally prohibits various conduct by persons relative to obscene matter and obscene live conduct. The law **now** also generally prohibits various conduct

(Continued in column 2)

Cost Analysis by the Legislative Analyst

This initiative is concerned with the definition of obscenity and contemporary standards for its identification.

Adoption of this initiative would not have a direct fiscal impact on state and local government. Indirect fiscal effects relating to local governmental enforcement of the provisions of this initiative would depend on the subsequent level of illegal activity and local enforcement actions taken in response thereto.

(Continued from column 1)

relative to harmful matter where minors are the recipients.

This measure would make criminally punishable, as misdemeanors, various described acts relating to sex, including the distribution for public display of specified material relating to nudity, sadomasochistic abuse, sexual excitement, defecation and urination. It would also make criminally punishable, as misdemeanors, similar or related acts with respect to minors. If a person violated one of such provisions, and previously has been convicted five or more times of designated offenses relating to obscenity, he would be guilty of a felony and punishable by imprisonment in the state prison for not more than five years.

The measure would add the following new regulatory provisions:

1. The distributing, offering for sale, lending, or exhibiting of certain obscene matter within one mile of a building used as an elementary or high school, or of a public park would be made a public nuisance

2. Any person authorized to arrest another person for a violation of various provisions added to the Penal Code by the measure would be authorized to seize any prohibited materials found in the possession or under the control of the person so arrested, and to deliver them to the court. A procedure would be provided to determine whether there is probable cause to believe material so seized is prohibited material, and for its return, generally, if it is determined that it was seized unlawfully.

3. Certain prohibited materials would be declared to be contraband, and their de-

(Continued on page 46, column 1)

Detailed Analysis by the Legislative Counsel

(Continued from page 45, column 2)

struction required.

A provision would be added to authorize injunctive relief against the various acts prohibited by the measure and existing law.

Some provisions of the measure may present constitutional questions in light of exist-

(Continued in column 2)

(Continued from column 1)

ing court decisions. However, it includes a provision which, together with provisio existing law, provide that if any portio... the measure, or its application to any person or circumstance, is declared unconstitutional, such invalidity will not affect the other provisions or applications of the measure which are not held invalid.

Argument in Favor of Proposition 18

The U.S. Supreme Court has recognized the right and duty of states to provide for their children an environment conducive to their healthy emotional and moral development. That is the purpose of this measure. Its restraints are reasonable. They will be welcomed by those sincerely concerned about the welfare of our society and its children.

Recent experience clearly has demonstrated that California's obscenity laws are inadequate. Hardcore pornography has saturated many communities and threatens to engulf the state. It blatantly is flaunted in public places without regard for the sensibilities of our children. Law enforcement is handcuffed by statutes which give complete license to smut-peddlers.

Eminent students of human behaviour have expressed grave concern about the damaging effects of pornography, especially upon the young. They have identified these interrelated destructive influences of smut upon individuals and society:

1. Early exposure to pornography cripples emotional development and diminishes the consumer's ability to mature sexually.
2. Pornography is addictive and is as destructive of personality as narcotics.
3. Pornography dehumanizes sex. Humans become objects to be used rather than persons to be loved. Animals also become things to be used for the consumer's degenerate sexual gratification.
4. Pornography glorifies sexual violence.
5. Pornography encourages promiscuity among the young, with its consequent spread of venereal disease and unwanted pregnancies.
6. Pornography depersonalizes sex. Robbed of its meaningful, interpersonal relationship, sex becomes a warped and degenerate activity.
7. Dehumanization and depersonalization of sex produce defective personalities which ultimately produce a defective society.
8. History attests that societies which tolerate widespread public indulgence in deviant sexual practices suffer marked cultural and political decline.

The inability of law enforcement effectively to cope with the problems of pornography is the result of these weaknesses in our statutes:

1. The requirement that, to be considered obscene, material must be without any redeeming social importance. The requirement is unnecessary and undesirable. It has allowed even the hardest pornography to escape censorship.
2. Vagueness of present language works a hardship on merchants and prosecution alike.
3. Because there is no means for stopping obscene materials prior to their dissemination, much damage is done before the law can act.
4. No mechanism exists for allowing local community control of pornography.

THE PURPOSE OF THIS MEASURE IS:

1. To protect our children from the debilitating effects of obscenity by eliminating hardcore pornography.
2. To give some control over pornographic materials to local communities.
3. To conform California law to pronouncements of the United States Supreme Court.
4. To help law enforcement conserve funds through more efficient use of its resources.

WHEN ENACTED BY THE PEO... THIS MEASURE WILL:

1. Eliminate the "social importance test" from our statutes.
2. Within reasonable limits, allow local communities to regulate the moral climate in which they wish to live.
3. Place interested parties on notice as to specific activities which are proscribed.
4. Within reasonable and constitutional limits, allow law enforcement to stop dissemination of harmful matter before the damage is done.

JOHN L. HARMER
State Senator, 21st District
WOODRUFF J. DEEM
District Attorney, Ventura County
HOMER E. YOUNG
Pornography Specialist
Federal Bureau of Investigation, Retired (1955–1972)

Rebuttal to Argument in Favor of Proposition 18

Vote "NO" to the censorship initiative. The supporting argument fails to tell you these important facts.

The censorship initiative is not primarily concerned with minors. Over 80% of its provisions directly limit the rights of adults to read or view matter. But it could limit adults to matter which is fit only for children.

The censorship initiative will not ban ... nography. Our highest court has explicitly said that our existing obscenity law bans "hard core pornography."

The censorship initiative will ban matter which is not obscene. It creates hundreds of crimes, crimes so broad that recent academy award movies Patton, Cabaret and Godfather would be subject to prosecution.

The censorship initiative does not give control over pornographic materials to local communities. Local police, sheriffs and district attorneys are already empowered to enforce our law banning pornography. But it does give cities and counties the right to "further regulate" the right to read and to create more censorship laws.

The censorship initiative is not necessary to protect minors. California passed a special statute in 1969 to prohibit distribution of harmful matter to children.

The censorship initiative will not bring California into conformity with our Constitution. Rather, the initiative, by repealing such constitutionally required provisions as the social importance test, will subject our existing law to invalidation. The social importance test does not impede the prosecution of obscenity. Our highest court has said that hard core pornography is utterly without redeeming social importance.

Vote "NO" to the obscenity initiative.

FATHER CHARLES DOLLEN
Library Director
University of San Diego
RT. REV. RICHARD MILLARD
Suffragan Bishop to California
Episcopal Bishop of San Jose
CHARLES WARREN
Assemblyman, 56th District

Argument Against Proposition 18

Vote "NO" on Proposition 18. It would not regulate obscenity. It would create wholly new crimes banning matter which is not obscene. It would create the most drastic censorship law ever proposed to the citizens of California. It would impose censorship on books, newspapers, motion pictures, sculpture, paintings, records and all forms of distribution including libraries.

Proposition 18 would abolish the protection now given recognized works of art and literature. It would deny adults the right to read or view matter which is not obscene. It would deny adults in many cities the right to read or view matter freely available elsewhere. It would create sweeping new crimes subjecting motion picture artists and others to criminal prosecution. It would give power to government officials to seize books, newspapers or motion pictures without a search warrant. It would restrict the matter which newspapers could freely circulate. It would empower cities and counties to create hundreds of even broader censorship laws.

Proposition 18 goes far beyond banning obscene matter. California already bans obscenity to the extent constitutionally permissible. It would create wholly new crimes banning matter which is not obscene. The new crimes are so sweeping and vaguely worded that adults could be prevented from seeing the academy award winning motion pictures French Connection, Patton and Midnight Cowboy, or award nominees Love Story, MASH, Cabaret, Butch Cassidy and the Sundance Kid, Five Easy Pieces and The Last Picture Show. The producers and stars of such movies could be subject to criminal prosecution.

Proposition 18 is a badly drafted measure of over 6,000 words. It is so broad that it would make it a crime to exhibit to an adult a motion picture or magazine containing a single photograph "that shows the nude or nearly nude body," or that utilizes slang words referring to the human body. Playboy magazine would obviously be banned as would many major motion pictures.

Proposition 18 repeals the protection now given recognized works of art and literature, such as Michelangelo's statue of David, by repealing language protecting matter of redeeming social importance. This drastic proposal was rejected by the people of this state in 1966 when they soundly defeated an identical initiative proposal.

Proposition 18 could also spawn hundreds of new censorship laws. It empowers cities and counties to pass censorship laws going beyond those in the initiative and to ban what is not tolerated by their local standards. Matter could not circulate freely in the state. Adults in one city would be denied matter lawfully available in another city. Only the most bland and innocuous of matter would survive this oppressive network of censorship laws.

The drastic proposals contained in Proposition 18 are opposed by newspapermen, motion picture artists, librarians and many others.

Proposition 18 would create a vast bureaucratic jungle of censorship laws strangling our freedoms of speech and press. Our police are needed in the streets preventing crime, not in our libraries censoring books.

Vote "NO" on censorship.

FATHER CHARLES DOLLEN
Library Director, University of San Diego
RT. REV. RICHARD MILLARD
Suffragan Bishop to California
Episcopal Bishop of San Jose
CHARLES WARREN
Assemblyman, 56th District

Rebuttal to Argument Against Proposition 18

Opponents' review of Proposition 18 must have been superficial. Their argument contains many gross misstatements of fact, any of which would be obvious to a careful reader.

The charge of "vagueness" is false. The measure is long because it is clear and specific. "Broad and vaguely worded" documents require few words.

The emotional appeal to the specter of censorship clearly is misplaced. Because the measure is extremely specific, it would in fact reduce the incidence of arbitrary censorship.

The concepts advocated here are not new. They have been adopted by other states, including New York and Oregon.

Some facts:

1. California law is unduly permissive. Many states never have adopted the "redeeming social importance test." Others have abolished it. No majority opinion of the United States Supreme Court requires it.
2. None of the movies listed by opponents would be banned, nor would "Playboy" or Michelangelo's "David". What is banned is the obscene exhibition of human genitals, sexual conduct and excretion.
3. Broad defenses within the measure protect works of art and other matter which is not obscene. Opponents conveniently overlooked these. As it concerns adults, the measure is directed at hardcore pornography, nothing more.

Opponents' argument should be rejected just as the conclusions of the President's Commission on Pornography were rejected by conscientious scholars, Congress and the President himself, because of its utter disregard for the facts.

We urge a YES vote. We must protect ourselves against the commercialization of degenerate sex. This proposition may be our last chance.

JOHN L. HARMER
State Senator, 21st District
WOODRUFF J. DEEM
District Attorney,
Ventura County
HOMER E. YOUNG
Pornography Specialist
Federal Bureau of Investigation, Retired (1955–1972)

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19 **MARIJUANA. Initiative.** Removes state penalties for personal use. Proposes a statute which would provide that no person eighteen years or older shall be punished criminally or denied any right or privilege because of his planting, cultivating, harvesting, drying, processing, otherwise preparing, transporting, possessing or using marijuana. Does not repeal existing, or limit future, legislation prohibiting persons under the influence of marijuana from engaging in conduct that endangers others. Financial impact: None.

YES	
NO	

(For Full Text of Measure, See Page 27, Part II)

General Analysis by the Legislative Counsel

A "Yes" vote on this initiative statute is a vote to revise present California law relative to marijuana to provide that no person in the State of California 18 years of age or older shall be punished in any way for growing, processing, transporting, or possessing marijuana for personal use, or for using it.

A "No" vote is a vote to reject this revision.

For further details, see below.

Detailed Analysis by the Legislative Counsel

State law **now** makes possession of marijuana punishable as either a misdemeanor or a felony for a first offense and as a felony for a second or subsequent offense. The planting, cultivating, harvesting, drying, or processing of marijuana or any part thereof is punishable as a felony; and the transporting, offering to transport, or attempting to transport marijuana is punishable as a felony.

This measure would provide that no person in this state who is 18 years of age or older shall be punished criminally, or be denied any right or privilege, by reason of such person's planting, cultivating, harvesting, drying, processing, otherwise preparing, transporting, or possessing marijuana for personal use, or by reason of that use.

The measure would provide that it would not be construed as repealing existing legislation, or limiting the enactment of future legislation, that prohibits persons under the influence of marijuana from engaging in conduct that endangers others. An example of such legislation is present Section 23105 of the Vehicle Code, which prohibits the operation of a vehicle on a highway while under the influence of any drug.

(Continued in column 2)

(Continued from column 1)

Any change in California law made by the measure would not affect criminal penalties prescribed by the federal "Controlled Substances Act" with respect to the planting, cultivating, harvesting, drying, processing, or otherwise preparing, transporting, or possessing marijuana for personal use.

Cost Analysis by the Legislative Analyst

This measure repeals for persons 18 years of age or older all criminal sanctions for the planting, cultivating, harvesting, drying, processing, otherwise preparing, transporting or possessing marijuana for the purpose of personal use or by reason of that use.

This measure would not result in increased state or local costs. It should result in a reduction in cost of state and local law enforcement and judicial activities relating to the personal possession and use of marijuana. However, such cost reductions will probably not be large enough to be readily identifiable and result in a decrease in state and local expenditures. Rather, they will be shifted to other law enforcement and judicial activities.

Argument in Favor of Proposition 19

This proposition removes criminal penalties for the adult personal use, possession and cultivation of marijuana. It DOES NOT LEGALIZE sale or encourage the use of marijuana. The proposition recognizes the responsibility of government to maintain criminal penalties for activity under the influence of marijuana which may endanger others. It permits cultivation to provide a legitimate source for personal use so that people need not purchase marijuana illegally.

After the most complete study ever made of social and medical evidence concerning marijuana, decriminalization has been recommended by President Nixon's Commission on Marijuana, as well as by the Los Angeles County Grand Jury, the National Institute of Mental Health, and the American Medical Association Drug Committee.

These conservative authorities all agree that marijuana is not addictive, does not lead to other drugs, does not damage the body, does not produce mental illness, crime or violence, and has no lethal dose. While no drug—including aspirin, alcohol and tobacco—is harmless, the vast majority of people who use marijuana do so without harm to themselves or society.

The central public policy question is what to do with people—our sons and daughters—who engage in personal behavior that some may consider undesirable? What approach is likely to change their behavior without destroying them in the name of saving them? Decriminalization is the answer.

A YES vote on Proposition 19 will save California taxpayers hundreds of millions of dollars each year currently wasted on the needless arrest, prosecution, and jailing of otherwise innocent and law-abiding citizens. The present laws divert police and prosecutors from action against serious crimes, overcrowd our courts and jails, and undermine respect for law and order.

Distortion of the dangers of marijuana leads young people to disbelieve the truth about heroin, amphetamines, and other dangerous drugs. A rational stand on marijuana is necessary to curb drug abuse and help restore the credibility to our drug education programs.

Marijuana is not as harmful as our two most popular drugs—alcohol and tobacco—and there is no justification for making criminals out of people who use any of these. The present laws are expensive, destructive, and unsuccessful: soft on drugs and hard on people.

It's time to return to traditional American values and stop making criminals of normal people for personal behavior. Merely reducing penalties to a misdemeanor is no solution. That still leaves thousands of Californians faced with arrest records and harsh fines or jail terms without reduction in enforcement costs or decrease in drug abuse.

Proposition 19 is the only alternative to legalization, or to the present system which is plagued by corruption, hypocrisy, destruction of hundreds of thousands of innocent lives, and the waste of human and financial resources.

Help restore respect for the law, the police, and most of all, for the American ideal of the right of all citizens to be free from unwarranted governmental interference in their personal lives. Please vote YES on Proposition 19 to decriminalize marijuana use by those over 18.

JOEL FORT, M.D.
Public Health Specialist and Criminologist; former Consultant on Drug Abuse for the World Health Organization

MARY JANE FERNANDEZ
Educator

GORDON S. BROWNELL, J. D.
Former Member of White House Staff (1969–1970)

Rebuttal to Argument in Favor of Proposition 19

Legalization of anything encourages its use. Penalty always acts as a deterrent to any human action. We are a law-abiding people. Laws now serve as a successful deterrent to drug abuse by many of our young. If we remove these laws, we are giving public approval to drug abuse. Some governments carry death penalties for trafficking in marijuana—the majority carry stiff penalties up to life imprisonment (where the sentence means exactly that). The World Health Organization states there is no justification for marijuana use. A study of 5,000 heroin addicts showed that 95% of them started on drugs with marijuana. Other studies show the same.

Never before has a governmental agency proposed legalization of a drug prior to the time its effects were known. Marijuana is an unpredictable drug. Backyard legalization for everyone would compound the unpredictability.

Marijuana's harmful effects are being glossed over. John Ingersoll, Director, U. S. Department of Justice, Bureau of Narcotics and Dangerous Drugs, states: "Expert medical opinion recognizes marijuana as a substance . . . that has not been proved harmless by scientific research . . . There are persistent, documented reports of its dangers . . . I believe people have a right to know more about those effects before government condones its use."

We must not throw open the door legally to allow social disintegration through legal drug abuse.

I repeat: A study of 5,000 heroin addicts showed that 95% started drug abuse with marijuana.

Vote NO on Proposition 19.

H. L. RICHARDSON
State Senator, 19th District
DR. HARDEN JONES, Ph.D.
Professor of Medical Physics and Physiology; Asst. Director of Donner Laboratory, U. C. Berkeley

Argument Against Proposition 19

The active drug content in marijuana is tetrahydrocannabinol or THC. This chemical was isolated in the 1940's and very little research has been done on it. THC is a psychotomimetic drug (or a psychosis mimicker) which appears to directly affect the central nervous system. One obvious and dangerous aspect of THC's effect is progressive loss of inhibitions; distortion of judgment; distortion of space and time relationships; and abnormal alteration of all the senses.

Marijuana is remarkably unpredictable because no quality controls or standards are maintained, and this would be particularly true if anyone could grow, process and use their own. Marijuana reaction is also dependent on the mood of the user, compounding its unpredictable nature.

The hallmark of marijuana use is flight from reality and its assassination of ambition. One of America's strengths is its ability to solve its own problems. We must meet the challenges of today with all facilities unimpaired by the crippling effects of drug abuse.

Dr. Constandinos Miras, from the University of Athens, who has studied marijuana habitues for more than 20 years, said: "I can recognize a chronic marijuana user from afar by the way he walks, talks and acts. You begin to see the personality changes that typify the long-time user—the slowed speech, the lethargy, the lowered inhibitions, the loss of morality."

The often used argument that marijuana is no more harmful than tobacco and alcohol shows monumental unawareness of the unpredictability of the drug, or intellectual dishonesty. The chemistry of alcohol and tobacco is readily understood and its effects generally are predictable.

The statement that marijuana is not physically addicting is misleading. It can hook the chronic user with the same psychological bonds caused by other dangerous drugs, psychological dependence lasting long after the user has "kicked the habit."

Even one marijuana trip is dangerous because marijuana is the vehicle for crossing the psychological barrier to drug abuse. Liberalization of laws on marijuana would be the green light for even more drug abuse, compounding a problem already raging out of hand.

No civilized nation on the face of the globe permits the sale and use of marijuana by law. In India where marijuana was formerly broadly used with no legal restriction whatsoever, it was discovered that the drug was draining the moral fiber of the population. India is now ending the sale and use of cannabinol drugs. Nigeria has gone full circle from open legalization to the death penalty for sale and use of marijuana because the drug caused incredible social and political strife in Nigerian society and it was feared that the drug would abort her national growth.

Proposition 19 would open the door to every possible act of conduct endangering others. Law enforcement would be taxed beyond limits to cope with the problems created by the passage of this measure. With any person legally capable of cultivating his own "weed" patch, it would be impossible to enforce existing legislation.

I cannot too strongly urge your "NO" vote on Proposition 19.

H. L. RICHARDSON
State Senator, 19th District
DR. HARDEN JONES, Ph.D.
Professor of Medical Physics and Physiology; Asst. Director of Donner Laboratory, U.C. Berkeley

Rebuttal to Argument Against Proposition 19

Enormous research has been done on marijuana beginning in 1893. Most recently it has been exhaustively studied by President Nixon's Commission on Marijuana and similar national commissions in Canada and England. All found marijuana not guilty and have recommended decriminalization.

Politicians are experts primarily on getting elected, not on drugs or morality. The total failure of our present criminal approach reflects this.

Marijuana is not a psychotomimetic. Like alcohol and sedatives, marijuana affects the nervous system, but does not cause a total loss of inhibitions. The predictable effects of alcohol and tobacco include one million deaths a year in America. No deaths have been reported from marijuana use.

Psychological dependence can occur with caffeine, marijuana or television, but abuse only exists if there is measurable damage to health or functioning.

Dr. Fort has personally studied drug use in India, Nigeria, and Greece. Millions of people there use marijuana, as they do here, despite its illegality and with no evidence of social or health damage. Reputable drug experts in these countries agree. Dr. Miras' study was specifically refuted by President Nixon's Commission which found that "the Greek sub-

jects did not evidence any deterioration of ntal or social functioning which could be ibuted solely to marijuana use."

Marijuana users in America include middle-aged legislators, housewives, businessmen and policemen. These people are not criminals and the law should recognize that reality.

Help yourself, help police, and reduce drug abuse. VOTE YES.

JOEL FORT, M.D.
Public Health Specialist and Criminologist; former Consultant on Drug Abuse for the World Health Organization
MARY JANE FERNANDEZ
Educator
GORDON S. BROWNELL, J.D.
Former Member of White House Staff (1969–1970)

20 **COASTAL ZONE CONSERVATION ACT.** **Initiative.** Creates State Coastal Zone Conservation Commission and six regional commissions. Sets criteria for and requires submission of plan to Legislature for preservation, protection, restoration and enhancement of environment and ecology of coastal zone, as defined. Establishes permit area within coastal zone as the area between the seaward limits of state jurisdiction and 1000 yards landward from the mean high tide line, subject to specified exceptions. Prohibits any development within permit area without permit by state or regional commission. Prescribes standards for issuance or denial of permits. Act terminates after 1976. This measure appropriates five million dollars ($5,000,000) for the period 1973 to 1976. Financial impact: Cost to state of $1,250,000 per year plus undeterminable local government administrative costs.

YES	
NO	

(For Full Text of Measure, See Page 27, Part II)

General Analysis by the Legislative Counsel

A "Yes" vote on this initiative statute is a vote to create the California Coastal Zone Conservation Commission and six regional mmissions; to regulate, through permits ued by the regional commissions, development within a portion of the coastal zone (as defined); and to provide for the submission of a California Coastal Zone Conservation Plan to the Legislature for its adoption and implementation. The statute would terminate on the 91st day after final adjournment of the 1976 Regular Session of the Legislature.

A "No" vote is a vote against adopting the measure.

For further details, see below.

Detailed Analysis by the Legislative Counsel

This initiative statute would enact the "California Coastal Zone Conservation Act of 1972." The principal provisions of the act would:

1. Create the California Coastal Zone Conservation Commission and six regional commissions. The regional commissions would be composed of members of the boards of supervisors, city councilmen, and members of regional agencies, plus an equal number of knowledgeable members of the public. The state commission would consist of a representative from each of the regional commissions, plus an equal number of knowledgeble members of the public.

2. Require the state commission to submit to the Legislature, by December 1, 1975, a California Coastal Zone Conservation Plan based on studies of all factors that signifi-

(Continued on page 52, column 1)

Cost Analysis by the Legislative Analyst

This initiative declares that the California coastline is a distinct and valuable resource and it is state policy to preserve, protect and, where possible, restore the natural and scenic resources of the coastal zone for present and succeeding generations. The coastal zone generally includes the land and water area extending seaward about three miles and inland to the highest elevation of the nearest coastal range. In Los Angeles, Orange and San Diego Counties the inland boundary can be no more than five miles.

The initiative would create one state and six regional commissions to:

1. Study the coastal zone and its resources,
2. Prepare a state plan for its orderly, long-range conservation and management, and
3. Regulate development by a permit system while the plan is being prepared.

The commissions begin February 1973. They must adopt the plan by December 1975 and terminate after adjournment of the 1976 Legislature which presumably would establish a permanent commission based on the plan. Commission membership would be balanced between local government officials and state appointed members.

The initiative requires the commission to study a broad range of subjects pertaining to the coastal zone. The final plan must include recommendations on:

1. Ecological planning principles and assumptions for determining suitability and extent of development.
2. Land use.

(Continued on page 52, column 2)

Detailed Analysis by the Legislative Counsel

(Continued from page 51, column 1)

cantly affect the "coastal zone," generally defined as land and water area extending seaward to the outer limit of the state jurisdiction and inland to the highest elevation of the nearest coastal mountain range.

3. Require each regional commission, in cooperation with appropriate local agencies, to make recommendations to the state commission relevant to the coastal zone plan by April 1, 1975.

4. Beginning February 1, 1973, require a permit from a regional commission for any proposed development (with specified exemptions) within the "permit area," defined, generally, as that portion of the coastal zone lying between the seaward limit of the jurisdiction of the state and 1,000 yards landward from the mean high tide line, subject to various exceptions. Provision is made for appeals to the state commission and to the courts.

5. Define "development" to include the following activities when conducted on land or in or under water:

(a) Placement or erection of any solid material or structure.

(b) Discharge or disposal of any dredged material or of any gaseous, liquid, solid, or thermal waste.

(c) Grading, removing, dredging, mining, or extraction of any materials.

(d) Change in the density or intensity of use of land, including, but not limited to, subdivision of land and lot splits.

(e) Change in the intensity of use of water, ecology related thereto, or access thereto.

(f) Construction, reconstruction, demolition, or alteration of the size of any structure, including any facility of any private, public, or municipal utility.

(g) Removal or logging of major vegetation.

6. Provide criminal penalties for violation of provisions relating to conflict of interest and specify civil fines for violation of other provisions of the act.

In addition, the initiative statute would add provisions to:

1. Require each county and city to transmit to the state commission a copy of each tentative map of any subdivision located in the portion of the coastal zone within its jurisdiction.

2. Appropriate $5,000,000 to the state commission to support it and the regional commissions for the fiscal years 1973 to 1976, inclusive.

3. Terminate the initiative statute on the 91st day after final adjournment of the 1976 Regular Session of the Legislature.

4. Authorize the Legislature, by two-thirds vote, to amend the initiative statute "in order to better achieve the objectives" of the statute.

Cost Analysis by the Legislative Analyst

(Continued from page 51, column 2)

3. Transportation.
4. Public access.
5. Recreation.
6. Public services and facilities including a powerplant siting study.
7. Ocean mineral and living resources.
8. Maximum desirable population densities.
9. Reservations of land or water for certain uses or prohibited uses.
10. Recommendations for governmental policies, powers and agencies to implement the plan.

The regional commissions, cooperating with local agencies, prepare plan recommendations to the state commission, which shall prepare and adopt the plan for submission to the Governor and Legislature.

During the four years the initiative would be in effect, new developments by any person or state or local agency in the permit area of the coastal zone would be severely restricted. The permit area includes generally the sea and 1,000 yards inland but excluding area under the San Francisco Bay Conservation and Development Commission. Certain urban land areas may also be excluded. No development permit shall be issued unless the regional commission, or the state commission on appeal, has found that the development will not have any substantial adverse environmental or ecological effect and will be consistent with objectives of the initiative which specify orderly, balanced preservation and utilization of coastal zone resources, maintenance of quality of the coastal zone environment, avoidance of irreversible commitments and other stated considerations.

The Legislature may amend the initiative by a two-thirds vote to achieve the objectives of the measure.

The direct state cost is $5 million appropriated to support the commission through 1976 from a fund created in 1971 with $40 million of the one-time revenue from withholding state personal income taxes.

Although staff and funds for the Comprehensive Ocean Area Plan (COAP) are to be transferred to the commission, no funding was provided for COAP in 1972–73.

The state plan must propose reservation of land or water in the coastal zone for certain uses or prohibition of certain uses. The acquisition of such land would probably be necessary but would require additional legislation. However, stringent application of the permit processes could result in unknown damages from inverse condemnation suits on lands not acquired. Oil and gas extraction would probably be restricted, reducing revenues to the state from extraction and possibly resulting in damages for loss of oil production.

(Continued on page 53, column 2)

Argument in Favor of Proposition 20

Save California's beaches and coastline for the people of California, vote YES on this proposition.

THE PROBLEM

Our coast has been plundered by haphazard development and land speculators. Beaches formerly open for camping, swimming, fishing and picnicking are closed to the public. Campgrounds along the coast are so overcrowded that thousands of Californians are turned away. Fish are poisoned by sewage and industrial waste dumped into the ocean. Duck and other wildlife habitats are buried under streets and vacation homes for the wealthy. Ocean vistas are walled off behind unsightly high rise apartments, office buildings, and billboards. Land speculators bank their profits, post their "no trespassing" signs and leave the small property owner with the burden of increased taxes to pay for streets, sewers, police and fire protection. The coast continues to shrink.

THE REASONS FOR THE PROBLEM

Massive construction projects are often approved solely to benefit corporate landowners. We need a coastal plan, but responsibility is fragmented among 45 cities, 15 counties and dozens of government agencies without the resources to evaluate and prevent developments whose destructive effects may overlap political boundaries.

THE SOLUTION?

Your YES vote!

YOUR YES VOTE WILL:

(1) Give the people direct participation in planning. No important decisions will be made until commissions hold public hearings and the citizen is heard. Coastal commissions are composed in equal number of locally elected officials and citizens representing the public;

(2) Furnish immediate protection of California's beaches from exploitation by the corporate land grab;

(3) Prevent tax increases resulting from irresponsible developments;

(4) Stimulate growth of the $4.2 billion annual tourist industry and make new jobs;

(5) Stop our beaches from becoming the exclusive playground of the rich;

(6) Bring a runaway construction industry back to the cities where jobs and new homes are needed;

(7) Use the coast to enrich the life of every Californian;

(8) Prevent conflicts of interest. Tough provisions modeled after federal law will keep coastal commissioners from planning for personal profit.

(9) Develop a fair Statewide Plan for balanced development of our coast.

(10) Increase public access to the coast.

(Continued in column 2)

Cost Analysis by the Legislative Analyst

(Continued from page 52, column 2)

The commission may, in its discretion, require a reasonable filing fee to permit applications and the reimbursement of expenses. Therefore, the revenues received depend on fee schedules established by the commission.

Local agencies would have some additional costs assisting the regional commissions in planning and forwarding applications for permits. There are 15 counties within the coastal zone and an estimated 40 cities. The size of their workload would depend largely on the precise location of permit area boundaries and the exclusion of urban areas as determined by the regional commissions. Deferral of developments along the shoreline would also defer local property revenues.

(Continued from column 1)

THE SAFEGUARDS:

(1) This act will not impose a moratorium or prohibit any particular kind of building, but ensures that authorized construction will have no substantial adverse environmental effect;

(2) Homeowners can make minor repairs and improvements (up to $7,500) without any more permits than needed now;

(3) The Legislature may amend the act if necessary.

YOUR YES VOTE ENACTS A BILL:

(1) Supported by more than 50 Republican and Democratic state legislators;

(2) Almost identical to legislation killed year after year by lobbyists in Sacramento;

(3) Modeled after the San Francisco Bay Conservation and Development Commission established by the Legislature in 1965, which has operated successfully to plan and manage the San Francisco Bay and its shoreline;

(4) Sponsored by the California Coastal Alliance, a coalition of over 100 civic, labor, professional and conservation organizations.

VOTE YES TO SAVE THE COAST

JOHN V. TUNNEY
United States Senator
DONALD L. GRUNSKY
State Senator
(R—Santa Cruz, Monterey, San Luis Obispo and San Benito Counties)
BOB MORETTI
Assemblyman
Speaker—California State Assembly

Rebuttal to Argument in Favor of Proposition 20

The proponents' Argument for Proposition 20 is a textbook example of circumvention of the facts.

It is filled with such misleading statements as "protection of California's beaches from exploitation by the corporate land grab";

"stop our beaches from becoming the exclusive playground of the rich"; "this act will not impose a moratorium"; "give the people direct participation in planning."

The truth is that the only "land grab" is that planned by the proponents of Proposition 20, who have devolved a scheme for appropriating private property without paying for it.

The truth is that Proposition 20 would make beach lands a haven for the rich who have already developed "exclusive playgrounds." The foremost motivation of the Initiative's elitist proponents is to preclude the enjoyment of coastal areas by retired and working people.

The truth is that Proposition 20 would, as a practical matter, establish a two to four year moratorium on virtually all building in the coastal area, including development for recreational purposes. The result would be a sharp reduction in land values, assessments and local tax collections which would create a severe economic depression in every one of the 15 coastal counties.

The truth is that people would have no direct participation in planning, which would be the sole prerogative of super-State and regional agencies composed of appointed commissioners.

Proposition 20 is discriminatory legislation and should be roundly defeated so that the people's elected representatives can get on with the job of completing sensible environmental and zoning controls over California's coastline.

JAMES S. LEE, President
State Building and Construction Trades Council of California

GEORGE CHRISTOPHER
Former Mayor of San Francisco

JOHN J. ROYAL
Executive Secretary Treasurer
Fishermen's & Allied Workers Union, I.L.W.U.

Argument Against Proposition 20

Proposition 20 on the November 7 ballot represents bad government for all Californians. Proposition 20 is bad because it takes government from the hands of the voters.

In the name of coastal protection, Proposition 20 would impose an appointed, not elected, super-government to control the destinies of almost 3½ million people who live near and over 1 million who work close to our ocean shore.

California's 1,087 mile coastline is not endangered.

The State's official Comprehensive Ocean Area Plan, which has inventoried the total coastal area, shows that 74% of the land is in open space, 65.1% is undeveloped in any way, and 54% is already in public ownership.

Proposition 20 is a power grab—and a land grab—by those who would by-pass the democratic process.

It would substitute for that process the judgment of a vast new bureaucracy and appointive commissioners largely representative of a single purpose point of view.

It is on the ballot because its sponsors have ignored all reasonable efforts by the State, by local government, by labor, by business and civic organizations to develop an orderly land management policy for California through the legislative and regulatory process.

These are the traditional processes and they are working.

A recent State-adopted plan for ocean waste discharges, for example, will cost $770 million—about $5.70 a year for every Californian—but the plan was approved in democratic fashion.

Yet the sponsors of Proposition 20 would lock up California's coastline for at least three years, and probably forever.

The results of Proposition 20 if it should pass include:

—Loss of $25,750,000 in tax revenues annually as values in the coastal zone are reduced and assessments dropped, thus forcing higher taxes on coastal counties, cities and school districts.

—Loss of millions of dollars and thousands of jobs in needed development projects, jobs especially important to racial and economic minorities in the construction industry.

—Delay of needed oceanfront and beach recreational projects because of the measure's disastrous fiscal implications to the State as a whole.

—Loss of local control and local voice in local affairs.

—Threat of increased power shortages and possible brownouts because of delays in construction of new power generating plants.

—Loss of property rights through inverse condemnation without compensation as private land use is denied but properties are not purchased by government.

Even more important if Proposition 20 passes, what's next?

Will the elitists who would grab our coastline for their own purposes then be after our mountains, our lakes and streams, our farmlands? And at what cost?

Nowhere in the planning principles set forth in Proposition 20 are the words "economy" or "economics" used once.

If the people of California want statewide land planning such planning must apply equally to all areas of the State, not just the coast. The federal government, the California Legislature, state and local government planning regulatory agencies are ready to complete the job.

Proposition 20 would halt that effort.

Don't lock up California's coastside.

Vote NO on Proposition 20.

JAMES S. LEE, President
State Building & Construction Trades Council of California

GEORGE CHRISTOPHER
Former Mayor of San Francisco

JOHN J. ROYAL
Executive Secretary Treasurer
Fishermen's & Allied Workers Union, I.L.W.U.

Rebuttal to Argument Against Proposition 20

The real opponents of the Coastline Initiative—the oil industry, real estate speculators and developers, and the utilities—are primarily concerned with profits, not the public interest. Their arguments are simply not true.

* Every government study, every scientific report, every trip to the beach proves that our beaches ARE endangered.

* The public has been denied access to hundreds of miles of beaches and publicly owned tidelands by freeways, private clubs, residential and industrial developments.

* Two-thirds of California's estuaries and many of our beaches have been destroyed.

* Of California's 1072 miles of coast, 659 are privately owned; of the 413 miles publicly owned, only 252 are available for public recreation.

* Proposition 20 represents an open beach and public access policy for Californians now locked out from swimming, beach recreation, surf-fishing and skin diving.

* The initiative process, the essence of democracy, gives the people this opportunity to enact themselves what unresponsive government has for years refused to do.

* Proposition 20 contains NO prohibition on the construction of power plants. Rather, it offers a sensible plan to determine where—not if—new plants may be built.

* One-half the membership of the six coastal commissions will be locally elected officials.

* The opponents claim revenue and job losses. These scare tactics have no basis in fact.

* Many labor unions, including the ILWU, Northern and Southern District Councils, are on record in support of the Coastline Initiative.

Vote YES on Proposition 20.

JOHN V. TUNNEY
United States Senator

DONALD L. GRUNSKY
State Senator
(R-Santa Cruz, Monterey, San Luis Obispo and San Benito Counties)

BOB MORETTI
Assemblyman
Speaker—California State Assembly

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21 **ASSIGNMENT OF STUDENTS TO SCHOOLS. Initiative.** Add section to Education Code providing: "No public school student shall, because of his race, creed, or color, be assigned to or be required to attend a particular school." Repeals section establishing policy that racial and ethnic imbalance in pupil enrollment in public schools shall be prevented and eliminated. Repeals section which (1) establishes factors for consideration in preventing or eliminating racial or ethnic imbalances in public schools; (2) requires school districts to report numbers and percentages of racial and ethnic groups in each school; and (3) requires districts to develop plans to remedy imbalances. Financial impact: None.

YES	
NO	

(For Full Text of Measure, See Page 33, Part II)

General Analysis by the Legislative Counsel

A "Yes" vote on this initiative statute is a vote to prohibit any public school student from being assigned to a particular school because of his race, creed, or color; and to repeal the existing statutes and void the existing regulations of the State Board of Education which declare the state policy of preventing and eliminating racial and ethnic imbalance in pupil enrollment and which make provision for carrying out such policy.

A "No" vote is a vote against enactment of the initiative act.

For further details, see below.

(Detailed analysis on page 56, column 1)

Cost Analysis by the Legislative Analyst

Existing law requires school districts to (1) submit statistics to the State Department of Education regarding the racial and ethnic makeup of school populations in each school, (2) study and consider plans for alternate pupil distributions if the State Department of Education finds that the percentage of pupils of one or more racial or ethnic groups differs significantly from the districtwide percentage, and (3) submit a report of alternate plans and a schedule of implementation to the State Department of Education for acceptance or rejection. The State Board of Education is directed to adopt rules and regulations to implement the above requirements.

(Continued on page 56, column 2)

Detailed Analysis by the Legislative Counsel

This measure would add a provision to the Education Code that no public school student shall be assigned to a particular school because of his race, creed, or color. The effect which would be given this provision would depend upon its interpretation by the courts in the light of their decisions that the Equal Protection Clause of the United States Constitution requires school boards to take reasonable steps to prevent and eliminate racial and ethnic imbalance in pupil enrollment.

The measure would also repeal certain existing statutes and void certain existing regulations of the State Board of Education. More particularly, the repeals would:

(1) Delete the present declarations of policy that responsible agencies prevent and eliminate racial and ethnic imbalance in pupil enrollment.

(2) Delete the present requirement that the prevention and elimination of such imbalance be given high priority in decisions relating to school sites, attendance areas, and attendance practices.

(3) Delete the present requirement that local school boards submit statistics periodically to the Department of Education regarding racial and ethnic makeup of school population in each school under their jurisdiction.

(4) Delete the present definition of a racial or ethnic imbalance.

(Continued in column 2)

Cost Analysis by the Legislative Analyst

(Continued from page 55, column 2)

This initiative measure would repeal above requirements and declare that no public school student shall, because of his race, creed or color, be assigned to or be required to attend a particular school.

We believe there would be no increase in state costs because of this measure. There might be a slight reduction in state costs because of the elimination of certain state administrative responsibilities with respect to school district plans concerning racial and ethnic makeup of school populations.

(Continued from column 1)

(5) Delete the present requirement that a school district consider plans to redistribute pupils when the Department of Education finds that the percentage of pupils of one or more racial or ethnic groups in a school differs significantly from the districtwide percentage.

(6) Delete the present requirement that school districts analyze the total educational impact of redistribution plans on pupils and submit reports of the study and the proposed plans, with schedules for implementation, to the Department of Education for approval.

(7) Delete the present requirement that the Department of Education determine adequacy of such plans and schedules and report its findings to the State Board of Education, with an annual summary to the Legislature.

Argument in Favor of Proposition 21

The Student School Assignment Initiative, commonly referred to as the "Wakefield Anti-Busing" measure, repeals a law passed in 1971 which mandates forced integration, which could only be accomplished through forced busing.

Your "yes" vote for this measure will preserve your right as a parent to have your children attend schools in the neighborhood where you choose to live.

The Initiative adds a section to the Education Code providing, "No public school student shall, because of his race, creed, or color, be assigned to or be required to attend a particular school."

Failure of this measure will assure the enforcement of State Board of Education rules and regulations required by the Bagley Act (AB 724) or the forced integration measure to compel school districts to assign students to schools on the basis of "racial balance" without regard to neighborhood schools or parental consent. For the first time in any state, racial balance has become a legal mandate.

The Initiative repeals the law which states it is the declared policy of the Legislature that racial and ethnic imbalances in pupil enrollment shall be prevented and eliminated.

The Initiative repeals the law which states that prevention and elimination of such imbalance shall be given high priority.

The Initiative repeals the law which requires that district study and plans of action, with schedules for implementation shall be submitted to the Department of Education for acceptance or rejection.

Also, Sec. 4 of the Student School Assignment Initiative would declare "null and void" that section of the Education Administrative Code relating to the attendance areas and practices, as set forth in the Education Code, which has created legal chaos for school districts.

The courts have already ordered several districts in California to implement the new forced integration law.

We oppose mandatory busing for the sole purpose of achieving forced integration. policy based on this objective destroys

neighborhood school concept, while at the same time squanders tax dollars which are desperately needed to upgrade our educational standards for all students regardless of race, creed or color.

We believe that all parents are entitled to freedom of choice in choosing the school environment for their most precious possessions, their children.

We believe that legislation such as the forced integration law, which forces local school districts to reassign pupils from their neighborhood schools to achieve racial and ethnic balance violates the basic rights of school children and will ultimately destroy the public school system.

We urge a "yes" vote to repeal this costly legislation.

FLOYD L. WAKEFIELD
Assemblyman, 52nd District

KEN BROWN, President
Solano County Board of Education

DR. ROBERT PETERSON
County Superintendent of Schools
Orange County

Rebuttal to Argument in Favor of Proposition 21

Unfortunately, proponents' argument indulges in the tired and time-worn tactic of raising scare words and horror stories which are unrelated to the subject at hand. Phrases such as "forced integration", "forced busing", "destruction of public schools" and "costly legislation" are such scare words.

Both Governor Reagan and Legislative Counsel agree that the new law does not involve mandatory busing and does not change basic State law.

In a 1963 decision (*Jackson* v. *Pasadena City School Dist.*), the California Supreme Court ruled: "The right to an equal opportunity for education . . . require(s) that school boards take steps, insofar as reasonably feasible, to alleviate racial imbalance in schools regardless of its cause." 59 Cal. 2d 876 at 881–882. (See *Serrano* v. *Priest*, 3 Cal. 3d 584 at 604 (1971)). That is basic constitutional law. Neither the new statute nor this ballot proposition would change it.

Further, the new language which the initiative would add is meaningless. The United States Supreme Court unanimously declared the same wording unconstitutional if, because of racial segregation, some students are not receiving an equal educational opportunity. See *North Carolina* v. *Swann*, 28 L. ed. 2d 586 at 589 (1971)—Burger, C. J. Opinion.

This primary fact remains true. The law sought to be repealed (AB 724 as signed by the Governor) simply sets up a procedure whereby local school boards, with public participation, can plan ahead to solve severe racial impaction problems. Without such a procedure, Courts will step in under the existing "equal protection" mandate of the United States and California constitutions. Then "busing" will occur under Court order.

JOHN CIMOLINO, President
California School Boards Association

MRS. ERNA SCHUILING
President, League of Women Voters

WILLIAM T. BAGLEY, Assemblyman
Marin and Sonoma Counties

Argument Against Proposition 21

Passage of this proposition will encourage Court-ordered "busing" in California! Please vote "no".

The proposition attempts two things. Its first sentence proposes some deceptively simple language which has already been declared unconstitutional, unanimously, by the U.S. Supreme Court. Thus, at best, this sentence is useless.

Secondly, the proposition repeals an administrative process whereby local school boards are to plan ahead, within districts where problems exist, to solve educational inequality problems. Repeal will only encourage Courts to order "busing" because no other mechanism will be available. There lies the fallacy of this measure.

The Legislature in 1971 passed and Governor Reagan after extensive study signed the law which this proposition would repeal. This was and is a very moderate proposal establishing flexible guidelines to aid local districts and to encourage districts to plan ahead to avoid busing controversies. For example, because of earthquake safety requirements, hundreds of new schools must be built by 1975. Districts should be encouraged to locate new school sites in order to prevent severe racial impaction. Other such long-range plans can be made by districts with the cooperation of the State Board of Education.

As long as this planning procedure is actively underway and these administrative remedies have not been exhausted, this very fact will provide a legal defense against mandatory "busing". Under this process, districts in seriously imbalanced areas can make progress, Court intervention can be averted, and resulting emotional and destructive controversies can be avoided. Quality education for all can be improved.

Legislative Counsel's office and Governor Reagan agree. Legislative Counsel has ruled that the law sought to be repealed:

1) does not relate to "busing" of any type and does not mandate "busing";

2) does not mandate attendance areas for school children and does not remove local control;

3) does not change the over-all racial balance policy of the State.

Governor Reagan, in a letter to the State Board of Education, stated that this new law here sought to be repealed "merely confirmed the authority and the affirmative duty of school districts to deal with racial imbalance

rather than have the Courts interfere . . . Nothing in this bill speaks to moving children across district lines. What this law does is to create an administrative mechanism to handle the problem rather than leave the issue for judicial action. Hopefully, this will strengthen our democratic processes and should be a balanced, rational and viable solution with the best chances for long-range desirable action."

The law here sought to be repealed provides a constructive alternative to sporadic and sometimes precipitous Court action. It creates a system of local district cooperation to identify areas of serious imbalance within a district and then allows time for long-range calm discussion and solution.

No amount of distortion can negate the truth and wisdom of this law and its importance to our State and our school children.

Don't repeal calm and deliberative progress. Please vote "no" on this ill-conceived and ill-considered proposition!

JOHN CIMOLINO, President
California School Boards Association

MRS. ERNA SCHUILING
President, League of Women Voters

WILLIAM T. BAGLEY, Assemblyman
Marin and Sonoma Counties

Rebuttal to Argument Against Proposition 21

The opposition to the Neighborhood School Initiative has repeatedly tried to deceive the public with false statements. No part of this initiative has ever been declared unconstitutional by the U.S. Supreme Court. Further, the initiative has a severability clause.

Charges that the repeal of the Education Administrative Code would encourage court ordered busing is false. This state and nation has witnessed chaos from court ordered programs before and since the law has been in existence.

On March 4, 1972, Bagley's forced integration measure became law. Later suits were filed in San Mateo and San Bernardino Counties demanding performance under provisions of the law.

When any law mandates a district study and plans for implementation of integrated programs be submitted to the Department of Education for its acceptance or rejection, we submit, this usurps local control!

Attempts are being made to throw the responsibility for defense of the forced integration law upon the Governor. Obviously the Governor cannot be personally aware of the ultimate consequences of every piece of legislation that crosses his desk and must rely upon information from many sources.

Although "busing" is not mentioned either in the forced integration law or the Los Angeles School District court order, how else can a child attend a school miles from his home? The majority of people are opposed to busing. If the forced integration law doesn't mandate busing, as claimed, it follows that the opponents should have no objection to this initiative. We urge a "Yes" vote on Proposition 21.

FLOYD L. WAKEFIELD
Assemblyman, 52nd District

KEN BROWN, President
Solano County Board of Education

DR. ROBERT PETERSON
County Superintendent of Schools
Orange County

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22 **AGRICULTURAL LABOR RELATIONS. Initiative.** Sets forth permissible and prohibited labor relation activities of agricultural employers, employees, and labor organizations. Makes specified types of strikes, picketing, and boycotts unlawful. Defines unfair labor practices. Creates Agricultural Labor Relations Board with power to certify organizations as bargaining representatives, conduct elections therefor, prevent unfair labor practices, and investigate and hold hearings relating to enforcement of Act. Provides Board's orders are reviewable and enforceable by courts. Provides interference with Board's performance of duties or commission of defined unlawful acts is punishable by fine and/or imprisonment. Financial impact: Cost increase to state of $600,000 per year.

YES	
NO	

(For Full Text of Measure, See Page 35, Part II)

General Analysis by the Legislative Counsel

A "Yes" vote on this initiative statute is a vote to provide for the regulation by the state of agricultural labor relations.

A "No" vote is a vote to reject this proposal.

For further details, see below.

(Detailed analysis on page 59, column 1)

Cost Analysis by the Legislative Analyst

This proposition defines the rights of parties engaged in agricultural labor disputes in California. It requires that bargaining representatives of agricultural employees be selected by means of secret ballot elections and specifies those activities of employers or labor organizations which would constitute unfair labor practices.

(Continued on page 59, column 2)

Detailed Analysis by the Legislative Counsel

General

The law does not now provide specifically for the regulation of agricultural labor relations. This measure would add comprehensive provisions to the law for this purpose.

Rights of Agricultural Employees and Employers

The measure would provide that agricultural employees have the right to form or join labor organizations, to bargain collectively through representatives of their own choosing, and to engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection. Employees would have the right to refrain from such activities, except that an authorized provision in a collective bargaining agreement could require membership in a labor organization as a condition of employment.

The measure would also specify management rights of agricultural employers.

Unlawful Acts

In general, the measure would make unlawful specified conduct by **a labor organization** involving employees of secondary employers, picketing, and agreements with labor organizations, relating to the following:

Secondary boycotts.

Unlawful agreements regarding production and marketing of agricultural products.

(3) Recognition or bargaining with uncertified labor organizations.

(4) Work assignments.

(5) Membership in labor organizations by employers or self-employed persons.

The measure would further make unlawful as to **any person**:

(1) Restraint, coercion, or threats (or attempts thereof) directed to secondary employers to not transport, process, or distribute agricultural products.

(2) Misrepresentation and dishonest or deceptive publicity directed to consumers of agricultural products.

(3) Restraint, coercion, and threats directed to consumers of agricultural products.

(4) Specified unlawful acts where the object is to prevent preparation and distribution of agricultural products.

Further, the measure would make it unlawful for **any person** to picket an agricultural employer to obtain recognition of a labor organization or collective bargaining by an agricultural employer, or acceptance or selection of a representative by agricultural employees, where:

(1) There is a lawfully recognized labor organization.

(Continued in column 2)

Cost Analysis by the Legislative Analyst

(Continued from page 58, column 2)

The measure establishes a five-member Agricultural Labor Relations Board appointed by the Governor which would entertain petitions for representation elections, certify the results of such elections and investigate and adjudicate complaints of unfair labor practices. In order to enforce its findings, the board could issue cease and desist orders or seek appropriate temporary or permanent injunctive relief from the superior court. Ultimate enforcement power with respect to these provisions would lie with the court, which could impose penalties of $5,000 or imprisonment for one year or both, for specified violations.

The Agricultural Labor Relations Board would be required to retain a general counsel and such assistant counsels as might be needed, and it is further authorized to appoint an executive secretary and such attorneys, hearing officers and trial examiners as it might find necessary. The board would maintain at least two offices, the principal office being located in Sacramento and the other in Los Angeles.

Based on the scope and nature of the board's responsibilities, we estimate a staffing requirement of approximately 29 positions and an expenditure level of approximately $600,000 in the first year of operations. This estimate includes the cost of salaries and related benefits, travel and operating expenses. Costs in subsequent years would be determined by workload requirements.

(Continued from column 1)

(2) There has been an employee representative election within the preceding 12 months.

(3) A petition for certification of an employee representative has not been filed.

Unfair Labor Practices

It would be an unfair labor practice for an **agricultural employer** to:

(1) Interfere with, restrain, or coerce his employees in the exercise of their rights.

(2) Dominate, interfere with, or support a labor organization.

(3) Discriminate in employment in order to encourage or discourage membership in a labor organization.

(4) Discriminate against an agricultural employee because he has filed charges or has given testimony.

(5) Refuse to bargain collectively.

It would be an unfair labor practice for a **labor organization** to:

(1) Restrain or coerce agricultural employees in the exercise of their rights, or agricultural employers in the selection of their labor relations representatives.

(Continued on page 60, column 1)

Detailed Analysis by the Legislative Counsel

(Continued from page 59, column 2)

(2) Cause or attempt to cause an agricultural employer to discriminate in employment in order to encourage or discourage membership in a labor organization.

(3) Refuse to bargain collectively.

(4) Require excessive or discriminatory fees where membership is required as a condition of employment.

(5) Cause or attempt to cause agricultural employers to do any of the following:

(a) Pay for services not performed.

(b) Establish or change the number or job assignments of employees.

(c) Assign work to employees of a particular employer.

(d) Discriminate in employment.

Agricultural Labor Relations Board

The measure would establish an Agricultural Labor Relations Board consisting of five members.

The board would be empowered to administer the selection of employee representatives. It would be empowered to prevent unfair labor practices and for this purpose could issue complaints, hold hearings, make determinations, and issue orders requiring persons to cease and desist and to take such

(Continued in column 2)

(Continued from column 1)

affirmative action as would effectuate the policies of the law.

Labor Representatives and Elections

An employee representative selected by a secret ballot by the majority of the agricultural employees in an appropriate unit would be certified by the Agricultural Labor Relations Board as the exclusive representative of all agricultural employees in such unit for the purpose of collective bargaining. Procedures would be established for holding such secret ballot elections by the board.

Court Actions

The board would be authorized to seek court enforcement of its orders. Aggrieved persons could seek court review of the board's actions.

In addition, aggrieved or injured persons would be authorized to sue in a superior court to recover damages resulting from unlawful acts.

Provision is made, in the case of a strike or boycott (or threat of a strike or boycott) against an agricultural employer, for the granting of a 60-day restraining order by a superior court upon proper application for such an order by the board or by an agricultural employer.

Argument in Favor of Proposition 22

Need For An Agricultural Labor Relations Law: Agriculture is the only significant part of our economy which does not have a law spelling out the rights and duties of workers, employers and the public. This makes no sense. Agriculture is the single most important element in California's economy. One out of every three jobs in this state is involved, directly or indirectly, with agriculture. The lack of reasonable rules and procedures for agricultural labor relations results in economic warfare in which the most powerful forces, whether they be growers or unions, get their way and innocent parties get hurt.

Here is what Proposition 22 would do to correct this:

Consumer Protection: The measure will help to insure the uninterrupted production of food and food products at prices which are not inflated by food shortages resulting from strife between farmers and farmworker unions.

While the farmworker's right to conduct a consumer boycott would be protected, the public would also be protected from deceptive or misleading boycott publicity.

Farmworker Protection: Farmworkers would be guaranteed the right to organize and to bargain collectively through representatives of their own choosing—without employer interference.

Workers who are fired or discriminated against because they exercise their rights would be fully protected and reinstated with back pay.

Secret ballot elections would be provided to decide union representation.

When a majority of farmworkers choose a union, their employer would be required to bargain in good faith.

A "union shop" can be agreed upon in collective bargaining.

The right to strike, and boycott would be protected. A 60-day waiting period could be required upon request to protect the public and allow opportunity for the dispute to be settled peacefully through conciliation.

Farmer Protection: The farmer would be assured of his right to manage and work on his own farm.

He would be protected from unfair union tactics, such as secondary boycotts and jurisdictional strikes, that are generally prohibited by the National Labor Relations Act.

The right of free speech would be guaranteed for the farmer (as well as for unions) so that each party may fully express his views.

Fair and Balanced Law: Proposition 22 is modeled after the National Labor Relations Act (which exempts farm workers), recognizing special problems of agricultural employment. It is designed to achieve a fair, reasonable balance between the interests of the farmworker, the farmer, and the consumer. To accomplish this, the proposed law would be administered by an Agricultural Labor Relations Board consisting of five members—two representatives of organized labor,

two representatives of agriculture and one, th chairman, a representative of the general p

Everyone—farmer, farmworker and the consumer—would benefit from the settlement through peaceful, legal procedures of farm labor disputes which, in the past have been resolved only by bitter, costly and wasteful strikes, lockouts or boycotts.

Vote "YES" for fair play under law for California farmers and farmworkers.

JOY G. JAMESON
Farmer

MRS. JOYCE VALDEZ
Housewife

RENNICK J. HARRIS
Rancher

Rebuttal to Argument in Favor of Proposition 22

Proposition 22 is a cleverly worded attempt by right wing agribusiness groups to increase their wealth at the expense of the most powerless group of workers in America. The argument for Proposition 22 is "deceptive and misleading"; for example: food prices are not inflated because of the modest aspirations of farm workers. Only 1–2¢ out of a 35¢ head of lettuce goes to workers in the field. The sponsors of Proposition 22 are the ones who p at the expense of consumers and farm w rs.

Proposition 22 pretends to protect the farm workers' right to strike and boycott, to hold fair representation elections and to bargain collectively. In truth, such provisions as the 60 day "waiting period" in farm labor strikes together with harsh punishment for primary and secondary boycott activity, deny all of these rights to the most helpless of California's poor. To be jailed for saying "BOYCOTT LETTUCE" is a denial of freedom of speech and therefore unconstitutional.

The proponents of Proposition 22 suggest that "unfair union tactics" such as secondary boycotts are prohibited by the National Labor Relations Act (NLRA); they neglect to say that the provisions of the NLRA are far less restrictive than Proposition 22 and that the provisions of the NLRA do not even apply to farm workers.

Proposition 22 is not a "fair and balanced" law but a repressive and irresponsible device to deprive struggling men, women and children of all hope for a decent life.

Please vote "NO" on Proposition 22.

CESAR E. CHAVEZ, Director
United Farm Workers, AFL-CIO

JOHN F. HENNING
Executive Secretary-Treasurer
C rnia Federation of Labor, AFL-CIO

h . WAYNE (CHRIS) HARTMIRE
Director, California Migrant Ministry

Argument Against Proposition 22

Migrant and seasonal farm workers are among the poorest of our nation's workers. The average migrant lives to be only 49 years of age. Child labor is common. The people who harvest the food we eat do not have enough even for their own children.

Farm workers are struggling non-violently to change these conditions. They are not asking for charity. Through sacrifice and hard work the UNITED FARM WORKERS have gained over 200 contracts with growers. The union provides new protections for farm workers; toilets in the fields, improved wages; protection from poisonous pesticides, health insurance, job security, holidays with pay, credit union, medical clinics, legal services, educational programs, etc.

Farm workers are emerging from decades of poverty and powerlessness. Much work remains. Only 10% of California's farm workers are protected by union contracts. Farm workers are currently engaged in a struggle with the lettuce industry and are asking supporters to "BOYCOTT ICEBERG LETTUCE" (if Proposition 22 passes we would be thrown in jail for saying that!).

Proposition 22 turns the clock back on progress for farm workers: It would destroy existing contracts. It outlaws fair elections and takes away strikes and boycotts, the farm workers only non-violent means for bringing about collective bargaining.

Proposition 22 is being financed by giant agribusiness corporations: The initiative was organized and paid for by lettuce growers, the Farm Bureau and other right wing groups to serve their own interests and to crush the farm worker's union.

Proposition 22 takes away from farm workers their right to vote in representation elections: Almost all migrant and seasonal farm workers would be disenfranchised. The law says:

"THE DATE OF SUCH ELECTION SHALL BE SET AT A TIME WHEN THE NUMBER OF TEMPORARY AGRICULTURAL EMPLOYEES ENTITLED TO VOTE DOES NOT EXCEED THE NUMBER OF PERMANENT AGRICULTURAL EMPLOYEES ENTITLED TO VOTE."

This means that if a grower has 20 permanent workers and 200 harvest or seasonal workers the election would have to be held at a time when there are no more than 20 harvest workers on the ranch, taking the vote away from 180 seasonal workers—the workers who are most in need and who are most likely to vote for a union.

Proposition 22 takes away from consumers their constitutional right to help farm workers: Under this law it will be illegal to ask

people not to buy "lettuce". Violation of the law is punishable by one year in jail or a $5,000 fine or both.

Proposition 22 is an attack on all working people: It outlaws all secondary boycott activity and most primary boycott activity. It provides for 60-day injunctions against strikes and boycotts; it outlaws collective bargaining over certain "management rights" (e.g., use of labor contractors and use of machinery); Proposition 22 is the first step toward anti-labor legislation in industries other than agriculture.

PLEASE VOTE NO ON PROPOSITION 22.

CESAR E. CHAVEZ, Director
United Farm Workers, AFL-CIO

JOHN F. HENNING
Executive Secretary-Treasurer
California Labor Federation, AFL-CIO

REV. WAYNE (CHRIS) HARTMIRE
Director, California Migrant Ministry

Rebuttal to Argument Against Proposition 22

"Yes" vote on Proposition 22 gives California farm workers the same protection the National Labor Relations Act provides for all other union workers.

Proposition 22 provides for a secret ballot in an election.

Proposition 22 provides for an impartial 5-man labor relations board; two from labor, two farm employers, and one impartial public member, to supervise the Farm Labor Act.

The right to strike and picket is safeguarded. A consumer boycott is legal, the public is protected against fraud.

A "Yes" vote provides self-determination to farm workers to organize and strike under the same conditions as other union workers; and to enter into collective bargaining agreements. It is an effort to bring the rule of law to workers and farmers alike.

Proposition 22 prevents the farmer from any activity interfering with the workers right to organize.

Proposition 22 gives the farm workers' union the protection of law. Unions are more successful operating under a labor law than attempting to operate outside one.

Seasonal workers are permanent employees, under the Act and can vote in union elections. Only 4% of the total California agricultural workers are migrant.

Pay for California farm workers is the highest in the nation.

Child labor is regulated by State law as are standards for living quarters and sanitary conditions.

Proposition 22 provides a 60-day mediation period for negotiating over a table rather than over the rotting crops.

Vote "Yes" on Proposition 22.

JOY G. JAMESON
Farmer

MRS. JOYCE R. VALDEZ
Housewife

RENNICK J. HARRIS
Rancher

PART II—APPENDIX

I **3ONDS TO PROVIDE PUBLIC COMMUNITY COLLEGE FACILITIES.** (This act provides for a bond issue of one hundred sixty million dollars ($160,000,000).)

1

AGAINST BONDS TO PROVIDE PUBLIC COMMUNITY COLLEGE FACILITIES. (This act provides for a bond issue of one hundred sixty million dollars ($160,000,000).)

This law proposed by SB 168 (Ch. 937), by act of the Legislature passed at the 1971 Regular Session, is submitted to the people in accordance with the provisions of Article XVI of the Constitution.

(This proposed law does not expressly amend any existing law; therefore, the provisions thereof are printed in **BOLDFACE TYPE** to indicate that they are **NEW**.)

PROPOSED LAW

Section 1. Sections 1 to 10, inclusive, of this act shall be known and may be cited as the Community College Construction Program Bond Act of 1972.

Sec. 2. The purpose of this act is to provide the necessary funds to meet the major building construction, equipment and site acquisition needs of California public community colleges.

For the purposes of this act, "public community colleges" includes public junior colleges, public community colleges, and any other public colleges which are maintained and operated as public community colleges or public junior colleges.

Proceeds of the bonds authorized to be issued under this act, in an amount or amounts which the Legislature shall determine, shall be used for major building construction, acquisition of equipment and acquisition of sites for California public community colleges under the Community College Construction Act of 1967 (Chapter 19 (commencing with Section 20050) of Division 14 of the Education Code), as it may be amended from time to time, or under any act enacted to succeed the Community College Construction Act of 1967.

Sec. 3. Bonds in the total amount of one hundred sixty million dollars ($160,000,000), or so much thereof as is necessary, may be issued and sold to provide a fund to be used for carrying out the purposes expressed in Section 2 of this act, and to be used to reimburse the General Obligation Bond Expense Revolving Fund pursuant to Government Code Section 16724.5. Said bonds shall be known and designated as Community College Construction Program bonds and, when sold, shall be and constitute a valid and binding obligation of the State of California, and the full faith and credit of the State of California are hereby pledged for the punctual payment of both principal and interest on said bonds as said principal and interest become due and payable.

Sec. 4. There shall be collected each year and in the same manner and at the same time as other state revenue is collected, such sum in addition to the ordinary revenues of the state as shall be required to pay the principal and interest on said bonds maturing in said year, and it is hereby made the duty of all officers charged by law with any duty in regard to the collection of said revenue to do and perform each and every act which shall be necessary to collect such additional sum.

Sec. 5. There is hereby appropriated from the General Fund in the State Treasury for the purpose of this act, such an amount as will equal the following:

(a) Such sum annually as will be necessary to pay the principal and interest on bonds issued and sold pursuant to the provisions of this act, as said principal and interest become due and payable.

(b) Such sum as is necessary to carry out the provisions of Section 8 of this act, which sum is appropriated without regard to fiscal years.

Sec. 6. The proceeds of bonds issued and sold pursuant to this act, together with interest earned thereon, if any, shall be deposited in the State Construction Program Fund. The money so deposited in the fund shall be reserved and allocated solely for expenditure for the purposes specified in this act and only pursuant to appropriation by the Legislature.

Sec. 7. The office of the Chancellor of the California Community Colleges, which is hereby designated as the board for the purposes of this act, shall annually total the appropriations referred to in Section 6 and, pursuant to Section 16730 of the Government Code, request the Community College Construction Program Committee to cause bonds to be issued and sold in quantities sufficient to carry out the projects for which such appropriations were made.

Sec. 8. For the purposes of carrying out the provisions of this act the office of the Chancellor of the California Community Colleges may request the Director of Finance by executive order to authorize the withdrawal from the General Fund of an amount or amounts not to exceed the amount of the unsold bonds which have been authorized

to be sold for the purpose of carrying out this act. Any amounts withdrawn shall be deposited in the State Construction Program Fund, and shall be reserved, allocated for expenditure, and expended as specified in Section 6 of this act. Any moneys made available under this section to the board shall be returned by the board to the General Fund from moneys received from the sale of bonds sold for the purpose of carrying out this act, together with interest at the rate of interest fixed in the bonds so sold.

Sec. 9. The bonds authorized by this act 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 Goverr t Code), and all of the provisions of sai / are applicable to said bonds and to this act, and are hereby incorporated in this act as though set forth in full herein.

Sec. 10. The Community College Construction Program Committee is hereby created. The committee shall consist of the Governor, the State Controller, the State Treasurer, the Director of Finance, and the Chancellor of the California Community Colleges. For the purposes of this act the Community College Construction Program Committee shall be "the committee" as that term is used in the State General Obligation Bond Law.

FOR BONDS TO PROVIDE HEALTH SCIENCE FACILITIES. (This act provides for a bond issue of one hundred fifty-five million nine hundred thousand dollars ($155,900,000).)

2

AGAINST BONDS TO PROVIDE HEALTH SCIENCE FACILITIES. (This act provides for a bond issue of one hundred fifty-five million nine hundred thousand dollars ($155,900,000).)

This law proposed by SB 281 (Ch. 665), by act of the Legislature passed at the 1971 Regular Session (as amended by SB 220 (Ch. 152) and AB 589 (Ch. 470), passed at the 1972 Regular Session), is submitted to the people in accordance with the provisions of Article XVI of the Constitution.

(This proposed law does not expressly amend any existing law; therefore, the provisions thereof are printed in **BOLDFACE TYPE** to indicate that they are **NEW**.)

PROPOSED LAW

Section 1. It is the intention of the Legislature in adopting this act to increase to the maximum extent possible the output of health professionals, the training of new categories of health personnel, the production of new knowledge on the prevention and care of disease, the efficiency of health care delivery systems, and the utilization of available federal funds, and, in so doing, to thereby minimize the cost of meeting the health care needs of the people of California.

Sec. 2. This act shall be known and may be cited as the Health Science Facilities Construction Program Bond Act of 1971.

Sec. 3. The purpose of this act is to provide the necessary funds to meet the construction, equipment, and site acquisition needs of the state for purposes of providing health science facilities at the University of California.

Proceeds of the bonds authorized to be issued under this act, in an amount or amounts which the Legislature shall determine, shall be used for the construction, equipment, and site acquisition of health science facilities at the University of California as are approved and authorized by the Legislature.

Sec. 4. Bonds in the total amount of one hundred fifty-five million nine hundred thousand dollars ($155,900,000), or so much thereof as is necessary, may be issued and sold to provide a fund to be used for carrying out the purposes expressed in Section 3 of this act, and to be used to reimburse the General Obligation Bond Expense Revc Fund pursuant to Government Code Sc 16724.5. Said bonds shall be known and designated as 1971 Health Science Facilities Construction Program Bonds and, when sold, shall be and 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 principal and interest on said bonds as said principal and interest become due and payable.

Sec. 5. There shall be collected each year and in the same manner and at the same time as other state revenue is collected, such sum in addition to the ordinary revenues of the state as shall be required to pay the principal and interest on said bonds maturing in said year, and it is hereby made the duty of all officers charged by law with any duty in regard to the collection of said revenue to do and perform each and every act which shall be necessary to collect such additional sum.

Sec. 6. There is hereby appropriated from the General Fund in the State Treasury for the purpose of this act, such an amount as will equal the following:

(a) Such sum annually as will be necessary to pay the principal and interest on bonds issued and sold pursuant to the provisions of this act, as said principal and est become due and payable.

(b) Such sum as is necessary to carry out the provisions of Section 9 of this act, which sum is appropriated without regard to fiscal years.

Sec. 7. The proceeds of bonds issued and sold pursuant to this act, together with interest earned thereon, if any, shall be deposited in the Health Science Facilities Construction Program Fund. The money so deposited in the fund shall be reserved and allocated solely for expenditure for the purposes specified in this act and only pursuant to appropriation by the Legislature in the manner hereinafter prescribed.

Sec. 8. A section shall be included in the Budget Bill for each fiscal year bearing the caption "1971 Health Science Facilities Construction Bond Act Program." Said section shall contain proposed appropriations only for the program contemplated by this act, and no funds derived from the bonds authorized by this act may be expended pursuant to an appropriation not contained in said section of the Budget Act. The Department of Finance, which is hereby designated as the board for the purposes of this act, shall annually total the Budget Act appropriations referred to in this section and, pursuant to Section 16730 of the Government Code, request the Health Science Facilities Construction Program Committee to cause bonds to be issued and sold in quantities sufficient to carry out the projects for which such appropriations were made.

Sec. 9. For the purposes of carrying out the provisions of this act the Director of Finance may by executive order authorize the withdrawal from the General Fund of an amount or amounts not to exceed the amount of the unsold bonds which have been authorized to be sold for the purpose of carrying out this act. Any amounts withdrawn shall be deposited in the Health Science Facilities Construction Program Fund, and shall be reserved, allocated for expenditure, and expended as specified in Section 7 of this act. Any moneys made available under this section to the board shall be returned by the board to the General Fund from moneys received from the sale of bonds sold for the purpose of carrying out this act, together with interest at the rate of interest fixed in the bonds so sold.

Sec. 10. The bonds authorized by this act 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, Division 4, Title 2 of the Government Code), and all of the provisions of said law are applicable to said bonds and to this act and are hereby incorporated in this act as though set forth in full herein.

Sec. 11. The Health Science Facilities Construction Program Committee is hereby created. The committee shall consist of the Governor, the State Controller, the State Treasurer, the Director of Finance, and the Chairman of the Regents of the University of California. For the purpose of this act, the Health Science Facilities Construction Program Committee shall be the "committee" as that term is used in the State General Obligation Bond Law.

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3 **ENVIRONMENTAL POLLUTION BOND AUTHORIZATION. Legislative Constitutional Amendment.** Authorizes Legislature to provide for issuance of revenue bonds, not secured by taxing power of state, to finance acquisition, construction, and installation of environmental pollution control facilities, and for lease or sale of same to persons, associations, or corporations, other than municipal corporations. Financial impact: No direct cost.

YES	
NO	

(This amendment proposed by Assembly Constitutional Amendment No. 81, 1972 Regular Session, expressly adds a new section to the Constitution; therefore, **NEW PROVISIONS** proposed to be **ADDED** are printed in **BOLDFACE TYPE**.)

PROPOSED AMENDMENT TO ARTICLE XVI

Sec. 14. The Legislature may provide for the issuance of revenue bonds to finance the acquisition, construction, and installation of environmental pollution control facilities, including the acquisition of all technological facilities necessary or convenient for pollution control, and for the lease or sale of such facilities to persons, associations, or corporations, other than municipal corporations; provided, that such revenue bonds shall not be secured by the taxing power of the state; and provided, further, that the Legislature may, by resolution adopted by either house, prohibit or limit any proposed issuance of such revenue bonds. No provision of this Constitution, including, but not limited to, Section 25 of Article XIII and Sections 1 and 2 of Article XVI, shall be construed as a limitation upon the authority granted to the Legislature pursuant to this section. Nothing herein contained shall authorize any public agency to operate any industrial or commercial enterprise.

4	**LEGISLATIVE REORGANIZATION. Legislative Constitutional Amendment.** Amends and adds various constitutional provisions to provide for or affect two-year legislative sessions, automatic adjournment, special sessions, recesses, effective date of statutes, limitation on time for introduction of bills and presentation to Governor, budget bill time limits and procedure, vetoes, Governor's annual report, pardons, and legislators' terms and retirement. Financial impact: Cost decrease to state of between $16,500 and $60,000 per year.	**YES**	
		NO	

(This amendment proposed by Assembly Constitutional Amendment No. 95, 1972 Regular Session, expressly amends existing sections of the Constitution and adds a new section thereto; therefore, **EXISTING PROVISIONS** proposed to be **DELETED** are printed in ~~STRIKEOUT TYPE~~ and **NEW PROVISIONS** proposed to be **INSERTED** or **ADDED** are printed in **BOLDFACE TYPE.**)

PROPOSED AMENDMENTS TO ARTICLES IV, V, AND XX

First—That subdivision (a) of Section 2 of Article IV be amended to read:

(a) The Senate has a membership of 40 Senators elected for 4-year terms, 20 to begin every 2 years. The Assembly has a membership of 80 Assemblymen elected for 2-year terms. **Their terms shall commence on the first Monday in December next following their election.**

Second—That Section 3 of Article IV be amended to read:

SEC. 3. (a) ~~The~~ **Except as provided in subdivision (c), the** Legislature shall ~~meet annually~~ **convene** in regular session at noon on the **first** Monday ~~after January 1. At the end of each regular session the Legislature shall recess for 30 days. It shall reconvene on the Monday after the 30-day recess, for a period not to exceed 5 days, to reconsider vetoed measures.~~

~~A measure introduced at any session may not be deemed pending before the Legislature at any other session.~~ **in December of each even-numbered year and each house shall immediately organize. Each session of the Legislature shall adjourn sine die by operation of the Constitution at midnight on November 30 of the following even-numbered year.**

(b) On extraordinary occasions the Governor by proclamation may ~~convene~~ **cause** the Legislature **to assemble** in special session. When so ~~convened~~ **assembled** it has power to legislate only on subjects specified in the proclamation but may provide for expenses and other matters incidental to the session.

(c) The Legislature shall convene the regular session following the addition of this subdivision at noon on January 8, 1973. The term of office of the legislators elected at the general election in 1972 shall commence at noon on January 8, 1973.

Third—That Section 4 of Article IV be amended to read:

SEC. 4. Compensation of members of the Legislature, and reimbursement for travel and living expenses in connection with their official duties, shall be prescribed by statute passed by rollcall vote entered in the journal, two-thirds of the membership of each house concurring. Commencing with 1967, in any statute enacted making an adjustment of the annual compensation of a member of the Legislature the adjustment may not exceed an amount equal to 5 percent for each calendar year following the operative date of the last adjustment, of the salary in effect when the statute is enacted. Any adjustment in the compensation may not apply until the commencement of the regular session commencing after the next general election following enactment of the statute.

~~Members of the Legislature shall receive 5 cents per mile for traveling to and from their homes in order to attend reconvening fr~~ ~~ing the 30-day recess after a regular s~~

The Legislature may not provide retirement benefits based on any portion of a monthly salary in excess of 500 dollars paid to any member of the Legislature unless the member receives the greater amount while serving as a member in the Legislature. The Legislature may, prior to their retirement, limit the retirement benefits payable to members of the Legislature who serve during or after the term commencing in 1967.

When computing the retirement allowance of a member who serves in the Legislature during the term commencing in 1967 or later, allowance may be made for increases in cost of living if so provided by statute, but only with respect to increases in the cost of living occurring after retirement of the member, except that the Legislature may provide that no member shall be deprived of a cost of living adjustment based on a monthly salary of 500 dollars which has accrued prior to the commencement of the 1967 Regular Session of the Legislature.

Fourth—That subdivision (d) of Section 7 of Article IV be amended to read:

(d) Neither house without the consent of the other may recess for more than ~~3~~ **10** days or to any other place.

Fifth—That subdivision (c) of Section 8 of Article IV be amended to read:

(c) ~~No statute may go into effect un~~ ~~61st day after adjournment of the re~~ ~~session at which the bill was passed, or until the 91st day after adjournment of the special session at which the bill was passed, except~~

~~statutes calling elections, statutes providing for tax levies or appropriations for the usual current expenses of the State, and urgency statutes.~~ **(1) Except as provided in paragraph (2) of this subdivision, a statute enacted at a regular session shall go into effect on January 1 next following a 90-day period from the date of enactment of the statute and a statute enacted at a special session shall go into effect on the 91st day after adjournment of the special session at which the bill was passed.**

(2) Statutes calling elections, statutes providing for tax levies or appropriations for the usual current expenses of the State, and urgency statutes shall go into effect immediately upon their enactment.

Sixth—That Section 10 of Article IV be amended to read:

SEC. 10. (a) Each bill passed by the Legislature shall be presented to the Governor. It becomes a statute if he signs it. He may veto it by returning it with his objections to the house of origin, which shall enter the objections in the journal and proceed to reconsider it. If each house then passes the bill by rollcall vote entered in the journal, two thirds of the membership concurring, it becomes a statute. A bill presented to the Governor that is not returned within 12 days becomes a statute ~~.~~ **; provided, that any bill passed by the Legislature before September 1 of the second calendar year of the biennium of the legislative session and in the possession of the Governor on or after September 1 that is not returned by the Governor on or before September 30 of that year becomes a statute. The Legislature may not present to the Governor any bill after November 15 of the second calendar year of the biennium of the legislative session.** ~~If the 12-day period expires during the recess at the end of a regular session, the bill becomes a statute unless the Governor vetoes it within 30 days from the commencement of the recess.~~ If the Legislature by adjournment of a special session prevents the return of a bill ~~it does not become a statute unless the Governor signs the bill and deposits it in the office of the Secretary of State within 30 days after adjournment.~~ **with the veto message, the bill becomes a statute unless the Governor vetoes the bill within 12 days by depositing it and the veto message in the office of the Secretary of State.**

Any bill introduced during the first year of the biennium of the legislative session that has not been passed by the house of origin by the thirtieth day of January of the second calendar year of the biennium may no longer be acted on by the house. No bill may be passed by either house on or after September 1 of an even-numbered year except statutes calling elections, statutes providing for tax levies or appropriations for the usual current expenses of the State, and urgency statutes, and bills passed after being vetoed by the Governor.

(b) The Governor may reduce or eliminate one or more items of appropriation while approving other portions of a bill. He shall append to the bill a statement of the items reduced or eliminated with the reasons for his action. ~~If the Legislature is in session, the~~ **The** Governor shall transmit to the house originating the bill a copy of his statement and the reasons. Items reduced or eliminated shall be separately reconsidered and may be passed over the Governor's veto in the same manner as bills.

Seventh—That Section 11 of Article IV be amended to read:

SEC. 11. The Legislature or either house may by resolution provide for the selection of committees necessary for the conduct of its business, including committees to ascertain facts and make recommendations to the Legislature on a subject within the scope of legislative control. ~~Committees may be authorized to act during sessions or after adjournment of a session.~~

Eighth—That subdivision (a) of Section 12 of Article IV be amended to read:

(a) Within the first 10 days of each ~~regular session, commencing with the 1972 Regular Session,~~ **calendar year,** the Governor shall submit to the Legislature, with an explanatory message, a budget for the ensuing fiscal year containing itemized statements ~~of~~ **for** recommended state expenditures and estimated state revenues. If recommended expenditures exceed estimated revenues, he shall recommend the sources from which the additional revenues should be provided.

Ninth—That subdivision (c) of Section 12 of Article IV be amended to read:

(c) The budget shall be accompanied by a budget bill itemizing recommended expenditures. The bill shall be introduced immediately in each house by the chairmen of the committees that consider appropriations. ~~Commencing in 1972, the~~ **The** Legislature shall pass the budget bill by midnight on June 15 of each year. Until the budget bill has been enacted, ~~neither house may pass any other appropriation bill,~~ **the Legislature shall not send to the Governor for consideration any bill appropriating funds for expenditure during the fiscal year for which the budget bill is to be enacted,** except emergency bills recommended by the Governor or appropriations for the salaries and expenses of the Legislature.

Tenth—That subdivision (b) of Section 23 of Article IV be amended to read:

(b) A referendum measure may be proposed by presenting to the Secretary of State, within ~~60~~ **90** days after ~~adjournment of the regular session at which the statute was passed or within 90 days after adjournment of the special session at which the statute was passed~~ **the enactment date of the statute,** a petition certified to have been signed by electors equal in number to 5 percent of the votes for all candidates for Governor at the last gubernatorial election,

asking that the statute or part of it be submitted to the electors.

Eleventh—That Section 3 of Article V be amended to read:

SEC. 3. The Governor shall report to the Legislature ~~at each session~~ **each calendar year** on the condition of the State and may make recommendations. ~~He may adjourn the Legislature if the Senate and Assembly disagree as to adjournment.~~

Twelfth—That Section 8 of Article V be amended to read:

SEC. 8. Subject to application procedures provided by statute, the Governor, on conditions he deems proper, may grant a reprieve, pardon, and commutation, after sentence, except in case of impeachment. ~~At each session he~~ **He** shall report to the Legislature each reprieve, pardon, and commutation granted, stating the pertinent facts and his reasons for granting it. He may not grant a pardon or commutation to a person twice convicted of a felony except on recommendation of the Supreme Court, 4 judges concurring.

Thirteenth—That Section 20 of Article XX be amended to read:

SEC. 20. Terms of elective offices provided for by this Constitution, **other than Members of the Legislature,** commence on the Monday after January 1 following election. The election shall be held in the last even-numbered year before the term expires.

Fourteenth—That Section 25 is added to Article XX, to read:

SEC. 25. Any legislator whose term of office is reduced by operation of the amendment to subdivision (a) of Section 2 of Article IV adopted by the people in 1972 shall, notwithstanding any other provision of this Constitution, be entitled to retirement benefits and compensation as if his term had not been so reduced.

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5 **SCHOOL DISTRICTS. Legislative Constitutional Amendment.** Permits Legislature to authorize governing boards of all school districts to initiate and carry on any programs, activities, or to otherwise act in any manner which is not in conflict with laws and purposes for which school districts are established. Financial impact: None in absence of implementing legislation.

YES	
NO	

(This amendment proposed by Assembly Constitutional Amendment No. 26, 1972 Regular Session, 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 **BOLDFACE TYPE.**)

PROPOSED AMENDMENT TO ARTICLE IX

SEC. 14. The Legislature shall have power, by general law, to provide for the incorporation and organization of school districts, high school districts, and ~~junior~~ **community** college districts, of every kind and class, and may classify such districts.

The Legislature may authorize the governing boards of all school districts to initiate and carry on any programs, activities, or to otherwise act in any manner which is not in conflict with the laws and purposes for which school districts are established.

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6 **MISCELLANEOUS CONSTITUTIONAL REVISIONS. Legislative Constitutional Amendment.** Deletes certain constitutional provisions and reinserts them in other articles. Deletes provision limiting four-year maximum terms of officers and commissions when terms not provided for in Constitution. Prohibits reduction of elected state officers' salaries during term. Permits Legislature to deal with tax matters in connection with changes in state boundaries. Requires Legislature to provide for working of convicts for benefit of state. Financial impact: None.

YES	
NO	

(This amendment proposed by Assembly Constitutional Amendment No. 42, 1972 Regular Session, expressly repeals existing sections and articles of the Constitution, and adds new sections and articles thereto; therefore, **EXISTING PROVISIONS** proposed to be **REPEALED** are printed in ~~STRIKEOUT TYPE~~ and **NEW PROVISIONS** proposed to be **ADDED** are printed in **BOLDFACE TYPE.**)

PROPOSED AMENDMENTS TO ARTICLES I, III, X, XIII, XX, AND XXI

First—That Section 3 of Article I is repealed.

~~SEC. 3. The State of California is an inseparable part of the American Union and the Constitution of the United States is the supreme law of the land.~~

Second—That Article III is repealed.

~~ARTICLE III~~

~~SEPARATION OF POWERS~~

~~The powers of state government are legislative, executive, and judicial. Persons charged with the exercise of one power may not exercise either of the others except as permitted by this Constitution.~~

Third—That Article III is added to read:

ARTICLE III

STATE OF CALIFORNIA

Sec. 1. The State of California is an inseparable part of the United States of America, and the United States Constitution is the supreme law of the land.

Sec. 2. The boundaries of the state are those stated in the Constitution of 1849 as modified pursuant to statute. Sacramento is the capital of California.

Sec. 3. The powers of state government are legislative, executive, and judicial. Persons charged with the exercise of one power may not exercise either of the others except as permitted by this Constitution.

Sec. 4. Salaries of elected state officers may not be reduced during their term of office. Laws that set these salaries are appropriations.

Sec. 5. Suits may be brought against the state in such manner and in such courts as shall be directed by law.

Fourth—That Article X is repealed.

~~ARTICLE X~~

~~State Institutions and Public Buildings~~

~~SECTION 1. The Legislature may provide for the establishment, government, charge and superintendence of all institutions for all persons convicted of felonies. For this purpose, the Legislature may delegate the government, charge and superintendence of such institutions to any public governmental agency or agencies, officers, or board or boards, whether now existing or hereafter created by it. Any of such agencies, officers, or boards shall have such powers, perform such duties and exercise such functions in respect to other reformatory or penal matters, as the Legislature may prescribe.~~

~~The Legislature may also provide for punishment, treatment, supervision, custody and care of females in a manner and under circumstances different from men similarly convicted.~~

~~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.~~

Fifth—That Section 44 is added to Article XIII to read:

44. The Legislature, in connection with any change, alteration or redefinition of state boundaries may provide for and deal with all matters involving the taxation or the exemption from taxation of any real or personal property involved in, or affected by, such change, alteration or redefinition of state boundaries.

Sixth—That Section 1 of Article XX is repealed.

~~SECTION 1. Sacramento is the Capital of California.~~

Seventh—That Section 5 is added to Article XX, to read:

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.

Eighth—That Section 6 of Article XX is repealed.

~~SEC. 6. Suits may be brought against the State in such manner and in such courts as shall be directed by law.~~

Ninth—That Section 16 of Article XX is repealed.

~~SEC. 16. When the term of any officer or commissioner is not provided for in this Constitution, the term of such officer or commissioner may be declared by law; and, if not so declared, such officer or commissioner shall hold his position as such officer or commissioner during the pleasure of the authority making the appointment, but in no case shall such term exceed four years; provided, however, that in the case of any officer or employee of any municipality governed under a legally adopted charter, the provisions of such charter with reference to the tenure of office or the dismissal from office of any such officer or employee shall control; and provided further, that the term of office of any person heretofore or hereafter appointed to hold office or employment during good behavior under civil service laws of the State or of any political division thereof shall not be limited by this section.~~

~~The Legislature may provide terms of office for not to exceed eight years for the members of any state agency created by it in the field of public higher education which is charged with the management, administration, and control of the State College System of California.~~

Tenth—That Article XXI is repealed.

~~ARTICLE XXI~~

~~Boundary~~

~~SECTION 1. The boundary of the State of California shall be as follows: Commencing at the point of intersection of the forty-second degree of north latitude with the one hundred and twentieth degree of longitude west from Greenwich, and running south on the line of said one hundred and twentieth degree of west longitude until it intersects the thirty-ninth degree of north latitude; thence running in a straight line, in a southeasterly direction, to the River Colorado, at a point where it intersects the thirty-fifth degree of north latitude; thence down the middle of the~~

channel of said river to the boundary line between the United States and Mexico, as established by the treaty of May thirtieth, one thousand eight hundred and forty-eight, thence running west and along said boundary line to the Pacific Ocean, and extending therein three English miles; thence running in a northwesterly direction and following the direction of the Pacific coast to the forty-second degree of north latitude; thence on the line of said forty-second degree of north latitude to the place of beginning. Also, including all the islands, harbors, and bays along and adjacent to the coast.

SEC. 2. The Legislature, in cooperation with the properly constituted authori[illegible] of any adjoining state, is empowered to c[illegible], alter, and redefine the state boundaries, [illegible]uch change, alteration and redefinition to become effective only upon approval of the Congress of the United States. The Legislature, in connection with such change, alteration or redefinition of boundaries may provide for and deal with all matters involving the taxation or the exemption from taxation of any real or personal property involved in, or affected by, such change, alteration or redefinition of boundaries.

7 **ELECTIONS AND PRESIDENTIAL PRIMARY. Legislative Constitutional Amendment.** Requires Legislature to provide for primary elections for partisan offices, including an open presidential primary. Provides that a United States citizen 18 years of age and resident of this state may vote in all elections. Declares certain offices nonpartisan. Provides for secret ballot. Requires Legislature to define residence, provide for registration and free elections, prohibit improper election practices, and remove election privileges of certain persons. Financial impact: None.

YES	
NO	

(This amendment proposed by Senate Constitutional Amendment No. 32, 1972 Regular Session, expressly repeals an existing article of the Constitution and adds a new article thereto; therefore, **EXISTING PROVISIONS** proposed to be **REPEALED** are printed in ~~STRIKEOUT TYPE~~; and **NEW PROVISIONS** proposed to be **ADDED** are printed in **BOLDFACE TYPE.**)

PROPOSED AMENDMENTS TO ARTICLE II

First—That Article II thereof be repealed.

~~ARTICLE II~~

~~RIGHT OF SUFFRAGE~~

~~SECTION 1. Every native citizen of the United States of America, every person who shall have acquired the rights of citizenship under and by virtue of the Treaty of Quecretaro, and every naturalized citizen thereof, of the age of 21 years, who shall have been a resident of the State one year next preceding the day of the election, and of the county in which he or she claims his or her vote ninety days, and in the election precinct fifty-four days, shall be entitled to vote at all elections which are now or may hereafter be authorized by law; provided, any person duly registered as an elector in one precinct and removing therefrom to another precinct in the same county within fifty-four days, or any person duly registered as an elector in any county in California and removing therefrom to another county in California within ninety days prior to an election, shall for the purpose of such election be deemed to be a resident and qualified elector of the precinct or county from which he so removed until after such election; provided, further, no alien ineligible to citizenship, no idiot, no insane person, no person convicted of any infamous crime, no person hereafter convicted of the embezzlement or misappropriation of public money, and no person who shall not be able to read the Constitution in the English language and write his or her name, shall ever exercise the privileges of an elector in this State; provided, that the provisions of this amen[illegible]nt relative to an educational qualificatio[illegible]n not apply to any person prevented by a physical disability from complying with its requisitions, nor to any person who had the right to vote on October 10, 1911, nor to any person who was 60 years of age and upwards on October 10, 1911; provided, further, that the Legislature may, by general law, provide for the casting of votes by duly registered voters who expect to be absent from their respective precincts or unable to vote therein, by reason of physical disability, on the day on which any election is held.**

~~SEC. 1½. The Legislature may extend to persons who have resided in this State for at least 54 days but less than one year the right to vote for presidential electors, but for no other office; provided, that such persons were either qualified electors in another state prior to their removal to this State or would have been eligible to vote in such other state had they remained there until the presidential election in that state, and; provided further, that such persons would be qualified electors under Section 1 hereof except that they have not resided in this State for one year.~~

~~SEC. 2. Electors shall in all cases, except treason, felony, or breach of the peace, be privileged from arrest on the days of election, during their attendance at such election, going to and returning therefrom.~~

~~SEC. 2.5. The Legislature shall ha[illegible]e power to enact laws relative to the e[illegible]on of delegates to conventions of political parties; and the Legislature shall enact laws providing for the direct nomination of candidates~~

~~for public office, by electors, political parties, organizations of electors without convention, at elections to be known and designated as primary elections; also to determine the tests and conditions upon which electors, political parties, or organizations of electors may participate in any such primary election. It shall also be lawful for the Legislature to prescribe that any such primary election shall be mandatory and obligatory. The Legislature shall also have the power to establish the rates of compensation for primary election officers serving at such primary elections in any city, or city and county, or county, or other subdivision of a designated population, without making such compensation uniform, and for such purpose such law may declare the population of any city, city and county, county or political subdivision.~~

~~SEC. 2¾. Any candidate for a judicial, school, county, township, or other nonpartisan office who at a primary election shall receive votes on a majority of all the ballots cast for candidates for the office for which such candidate seeks nomination, shall be elected to such office. Where two or more candidates are to be elected to a given office and a greater number of candidates receive a majority than the number to be elected, those candidates shall be elected who secure the highest votes of those receiving such majority, equal in number to the number to be elected. Where a different method of election is provided by a freeholders' charter, the charter provisions shall govern.~~

~~SEC. 3. No elector shall be obliged to perform militia duty on the day of election, except in time of war or public danger.~~

~~SEC. 4. For the purpose of voting, no person shall be deemed to have gained or lost a residence by reason of his presence or absence while employed in the service of the United States, nor while engaged in the navigation of the waters of this State or of the United States, or of the high seas; nor while a student at any seminary of learning; nor while kept at any alms-house or other asylum, at public expense; nor while confined in any public prison.~~

~~SEC. 5. All elections by the people shall be by ballot or by such other method as may be prescribed by law; provided, that secrecy in voting be preserved.~~

~~SEC. 6. The inhibitions of this Constitution to the contrary notwithstanding, the Legislature shall have power to provide that in different parts of the State different methods may be employed for receiving and registering the will of the people as expressed at elections, and may provide that mechanical devices may be used within designated subdivisions of the State at the option of the local authority indicated by the legislature for that purpose.~~

~~SEC. 7. All elective officers of counties, and of townships, of road districts and of highway construction divisions therein shall be nominated and elected in the manner provided by general laws for the nomination and election of such officers.~~

~~SEC. 8. The Legislature shall provide for an open presidential primary whereby the candidates on the ballot are those found by the Secretary of State to be recognized candidates throughout the nation or throughout California for the office of President of the United States, and those whose names are placed on the ballot by petition, but excluding any candidate who has withdrawn by filing an affidavit that he is not a candidate.~~

Second—That Article II be added thereto, to read:

ARTICLE II

SUFFRAGE

Section 1. A United States citizen 18 years of age and resident in this state may vote.

Sec. 2. The Legislature shall define residence and provide for registration and free elections.

Sec. 3. The Legislature shall prohibit improper practices that affect elections and shall provide that no severely mentally deficient person, insane person, person convicted of an infamous crime, nor person convicted of embezzlement or misappropriation of public money, shall exercise the privileges of an elector in this state.

Sec. 4. The Legislature shall provide for primary elections for partisan offices, including an open presidential primary whereby the candidates on the ballot are those found by the Secretary of State to be recognized candidates throughout the nation or throughout California for the office of President of the United States, and those whose names are placed on the ballot by petition, but excluding any candidate who has withdrawn by filing an affidavit that he is not a candidate.

Sec. 5. Judicial, school, county, and city offices shall be nonpartisan.

Sec. 6. Voting shall be secret.

8 **TAX EXEMPTION FOR ANTI-POLLUTION FACILITIES. Legislative Constitutional Amendment.** Authorizes Legislature to exempt from ad valorem taxation facilities which remove, eliminate, reduce or control air, water or noise pollution to or in excess of standards required by state or local requirements and to provide state subventions to local governments for revenues lost by reason of such exemptions. Financial impact: None in absence of implementing legislation.

YES	
NO	

(This amendment proposed by Senate Constitutional Amendment No. 70, 1972 Regular Session, expressly amends an existing article of the Constitution by adding a new section thereto; therefore, **NEW PROVISIONS** proposed to be **ADDED** are printed in **BOLDFACE TYPE.**)

PROPOSED AMENDMENT TO ARTICLE XIII

Sec. 1¼c. The Legislature may exempt, in whole or in part, from ad valorem taxation, any air, water, or noise pollution control facility.

The term "air, water, or noise pollution control facility" means real or personal property, or a combination of both, in the form of machinery, equipment, installations, devices, fixtures or systems and includes that portion of a commercial or manufacturing unit, system, or process identified as property which removes, eliminates, reduces, or controls air, water, or noise pollution so as to produce results which meet or exceed pollution control standards required by applicable law and regulation.

A building is not within the definition of an "air, water, or noise control facility" unless the building is exclusively such a facility.

The Legislature shall have plenary power to define the terms used in this section.

The Legislature shall provide by general laws for subventions to counties, cities and counties, cities, and districts in this state an amount equal to the amount of revenue lost by each such county, city and county, city, and district by reason of any act adopted pursuant to this section. Any act adopted pursuant to this section shall contain an estimate of subvention required for the initial fiscal year in which such act is operative.

9 **BOND VOTE FOR STRUCTURALLY UNSAFE SCHOOL BUILDINGS. Legislative Constitutional Amendment.** Permits approval by majority vote, rather than two-thirds vote, to pass bond issue for purpose of repairing, reconstructing, or replacing structurally unsafe public school buildings. Financial impact: No direct cost but increased use of bonded debt due to reduced requirement for voter approval is anticipated.

YES	
NO	

(This amendment proposed by Senate Constitutional Amendment No. 72, 1972 Regular Session, expressly amends an existing section of the Constitution; therefore, **NEW PROVISIONS** proposed to be **INSERTED** are printed in **BOLDFACE TYPE.**)

PROPOSED AMENDMENT TO ARTICLE XIII

SEC. 40. 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, 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 of the public entity voting on the propostion 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 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 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** of the qualified electors, **as case may be,** voting on any one of such positions, vote in favor thereof, such proposition shall be deemed adopted.

10 **ND VETERANS TAX EXEMPTION. Legislative Constitutional Amendment.** Permits Legislature to increase property tax exemption from $5,000 to $10,000 for veterans who are blind due to service-connected disabilities. Financial impact: Nominal decrease in local government revenues.

YES	
NO	

(This amendment proposed by Senate Constitutional Amendment No. 23, 1972 Regular Session, 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 **BOLDFACE TYPE.**)

PROPOSED AMENDMENT TO ARTICLE XIII

SEC. 1¼b. The Legislature may exempt from taxation, in whole or in part, the property, constituting a home, of every resident of this state who, by reason of his military or naval service, is qualified for the exemption provided in subdivision (a) of Section 1¼ of this article, without regard to any limitation contained therein on the value of property owned by such person or his spouse, and who, by reason of a permanent and total service-connected disability incurred in such military or naval service is blind in both eyes with visual acuity of 5/200 or less; except that such exemption shall not extend to more than one home nor exceed ~~five~~ **ten** thousand dollars ~~($5,000)~~ **($10,000)** for any person or for any person and his spouse. This exemption shall be in lieu of the exemption provided in subdivision (a) of Section 1¼ of this article.

Where such blind person sells or otherwise disposes of such property and thereafter acquires, with or without the assistance of the government of the United States, any other property which such totally disabled person occupies habitually as a home, the exemption allowed pursuant to the first paragraph of this section shall be allowed to such other property.

The exemption provided by this section shall apply to the home of such a person which is owned by a corporation of which he is a shareholder, the rights of shareholding in which entitle him to possession of a home owned by the corporation.

~~This section shall apply to such property for the 1965–1966 fiscal year in the manner provided by law.~~

11 **RIGHT OF PRIVACY. Legislative Constitutional Amendment.** Adds right of privacy to inalienable rights of people. Financial impact: None.

YES	
NO	

(This amendment proposed by Assembly Constitutional Amendment No. 51, 1972 Regular Session, 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 **BOLDFACE TYPE.**)

PROPOSED AMENDMENT TO ARTICLE I

SECTION 1. All ~~men~~ **people** are by nature free and independent, and have certain inalienable rights, among which are those of enjoying and defending life and liberty; acquiring, possessing, and protecting property; and pursuing and obtaining safety, ~~and~~ happiness, **and privacy.**

12 **DISABLED VETERANS TAX EXEMPTION. Legislative Constitutional Amendment.** Permits Legislature to extend disabled veterans tax exemption to totally disabled persons suffering service-connected loss of both arms, loss of arm and leg, or blindness in both eyes and loss of either arm or leg. Extends exemption to either surviving spouse. Financial impact: Nominal decrease in local government revenues.

YES	
NO	

(This amendment proposed by Senate Constitutional Amendment No. 59, 1972 Regular Session, 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 **BOLDFACE TYPE.**)

PROPOSED AMENDMENT TO ARTICLE XIII

SEC. 1¼a. The Legislature may exempt from taxation, in whole or in part, the property, constituting a home, of:

(a) every resident of this state who, by reason of his **or her** military or naval service, is qualified for the exemption provided in Section 1¼ of this article, without regard to any limitation contained therein on the value of property owned by such person or his ~~wife~~ **or her spouse,** and who, by reason of a permanent and total service-connected disability incurred in such military or naval service due to the loss, or loss of use, as the result of amputation, ankylosis, progressive muscular dystrophies, or paralysis, of both lower extremities, such as to preclude locomotion without the aid of braces, crutches, canes, or a wheelchair, has received assistance from the Government of the United States in the acquisition of such property, ~~and, (b) the home of the widow of every such person if the home was acquired as described in subdivision (a),~~ **or:**

(b) every resident of this state who, by reason of his or her military or naval service, is qualified for the exemption provided in Section 1¼ of this article, without regard to any limitation contained therein on the value of property owned by such person or his or her spouse, and who, by reason of a permanent and total service-connected disability incurred in such military or naval service (1) has suffered the loss, or loss of use of both arms, as the result of amputation, ankylosis, progressive muscular dystrophies, or paralysis, or (2) is blind in both eyes with a visual acuity of 5/200 of less and has suffered the loss or loss of use, as the result of amputation, ankylosis, progressive muscular dystrophies, or paralysis, of one lower tremity or one arm or (3) has suffere loss or loss of use, as a result of amputation, ankylosis, progressive muscular dystrophies, or paralysis, of both an upper and lower extremity, or:

(c) the surviving spouse of every such person qualifying for an exemption under subdivision (a) or (b), if the home was acquired as described in subdivision (a) or (b); except that such exemption shall not extend to more than one home nor exceed ten thousand dollars ($10,000) for any person, for any person and his **or her** spouse, or for ~~his widow~~ **the surviving spouse of such person.** This exemption shall be in lieu of the exemption provided in Section 1¼ of this article.

Where such totally disabled person, such person and his **or her** spouse, or ~~his widow~~ **the surviving spouse of such person,** sells or otherwise disposes of such property and thereafter acquires, with or without the assistance of the Government of the United States, any other property which such totally disabled person, such person and his **or her** spouse, or ~~his widow~~ **the surviving spouse of such person,** occupies habitually as a home, the exemption allowed pursuant to the first paragraph of this section shall be allowed to such other property.

This section shall not apply to a **surviving spouse** upon **his or** her remarriage.

13	**WORKMEN'S COMPENSATION. Legislative Constitutional Amendment.** Gives Legislature power to provide for payment of workmen's compensation award to state on death, arising out of and in course of employment, of employee without dependents. Permits such awards to be used for extra subsequent injury compensation. Financial impact: If implemented, would decrease state costs approximately $1,800,000 per year.	**YES**	
		NO	

(This amendment proposed by Senate Constitutional Amendment No. 20, 1972 Regular Session, 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 **BOLDFACE TYPE.**)

PROPOSED AMENDMENT TO ARTICLE XX

SEC. 21. The Legislature is hereby expressly vested with plenary power, unlimited by any provision of this Constitution, to create, and enforce a complete system of workmen's compensation, by appropriate legislation, and in that behalf to create and enforce a liability on the part of any or all persons to compensate any or all of their workmen for injury or disability, and their dependents for death incurred or sustained by the said workmen in the course of their employment, irrespective of the fault of any party. A complete system of workmen's compensation includes adequate provisions for the comfort, health and safety and general welfare of any and all workmen and those dependent upon them for support to the extent of relieving from the consequences of any injury or death incurred or sustained by workmen in the course of their employment, irrespective of the fault of any party; also full provision for securing safety in places of employment; full provision for such medical, surgical, hospital and other remedial treatment as is requisite to cure and relieve from the effects of such injury; full provision for adequate insurance coverage against liability to pay or furnish c pensation; full provision for regulating insurance coverage in all its aspects, including the establishment and management of

a State compensation insurance fund; full ision for otherwise securing the payment ompensation; and full provision for vesting power, authority and jurisdiction in an administrative body with all the requisite governmental functions to determine any dispute or matter arising under such legislation, to the end that the administration of such legislation shall accomplish substantial justice in all cases expeditiously, inexpensively, and without incumbrance of any character; all of which matters are expressly declared to be the social public policy of this State, binding upon all departments of the State government.

The Legislature is vested with plenary powers, to provide for the settlement of any disputes arising under such legislation by arbitration, or by an industrial accident commission, by the courts, or by either, any, or all of these agencies, either separately or in combination, and may fix and control the method and manner of trial of any such dispute, the rules of evidence and the manner of review of decisions rendered by the tribunal or tribunals designated by it; ~~*provided*~~ **provided**, that all decisions of any such tribunal shall be subject to review by the appellate courts of this State. The Legislature may combine in one statute all the provisions for a complete system of workmen's compensation, as herein defined.

The Legislature shall have power to provide for the payment of an award to the state in the case of the death, arising out of and in the course of the employment, of an employee without dependents, and such awards may be used for the payment of extra compensation for subsequent injuries beyond the liability of a single employer for awards to his employees.

Nothing contained herein shall be taken or construed to impair or render ineffectual in any measure the creation and existence of the industrial accident commission of this State or the State compensation insurance fund, the creation and existence of which, with all the functions vested in them, are hereby ratified and confirmed.

TAXATION. Initiative Constitutional Amendment. Establishes ad valorem property tax rate limitations for all purposes except payment of designated types of debts and liabilities. Eliminates property tax for welfare purposes, limits property tax for education, and requires state funding of these functions from other taxes. Increases sales, use, cigarette, distilled spirits, and corporation taxes. Decreases state taxes on insurance companies and banks and local sales and use taxes. Requires severance tax on extraction of minerals and hydrocarbons. Requires two-thirds vote of Legislature to increase designated taxes. Restricts new exemptions from property tax to those approved by election. Financial impact: A net ascertainable decrease in revenues to state and local government in excess of $1,233,000,000 per year.

4

YES	
NO	

(This Initiative Constitutional Amendment proposes to amend the Constitution by amending and repealing sections of Article XIII and adding a new Article XIII A. Therefore, **EXISTING PROVISIONS** proposed to be **DELETED** or **REPEALED** are printed in ~~STRIKEOUT TYPE~~ and **NEW PROVISIONS** proposed to be **INSERTED** or **ADDED** are printed in **BOLDFACE TYPE.**)

PROPOSED AMENDMENTS TO THE CONSTITUTION

First, that ARTICLE XIII A is added to the Constitution to read:

ARTICLE XIII A
Tax Limitation

Section 1. It is the intent of this Article that:

(a) The property tax shall be limited to 1.75% of market value for all purposes other than for the payment of debts or liabilities;

(b) All of the costs of education, except hereinafter provided, and all of the costs of social welfare services throughout the State of California shall be funded by the State and shall be paid from revenues derived from sources other than ad valorem property taxes; and

(c) Other tax reforms and limitations shall be established.

Section 2. From and after the effective date of this Article, the State shall not levy an ad valorem property tax for any purpose whatsoever; provided, however, that in each year that the State Controller certifies that no other source of funds or method of taxation is available, the State may levy a statewide ad valorem property tax sufficient to service and retire debts or liabilities of the State authorized or outstanding on the effective date of this Article; and provided, further, no subordinate taxing agency shall levy an ad valorem property tax for the purpose of paying the costs of social welfare services.

Section 3. From and after the effective date of this Article, for all purposes, except as provided in Sections 4 and 5 hereof, subordinate taxing agencies may levy ad valorem property taxes only within the following limitations:

(a) The tax levied by each county shall not exceed TWO DOLLARS ($2.00) per

ONE HUNDRED DOLLARS ($100) of assessed valuation of taxable property within such county.

(b) The tax levied by any consolidated city and county shall not exceed **FOUR DOLLARS** ($4.00) per **ONE HUNDRED DOLLARS** ($100) of assessed valuation of taxable property within such city and county.

(c) The tax levied by each city shall not exceed **TWO DOLLARS** ($2.00) per **ONE HUNDRED DOLLARS** ($100) of assessed valuation of taxable property within such city.

(d) The tax levied by or on behalf of all intra-county taxing agencies, the boundaries of which are wholly within one county, or one city and county, shall not exceed in the aggregate **FIFTY CENTS** ($0.50) per **ONE HUNDRED DOLLARS** ($100) of assessed valuation of taxable property within each such county, or city and county. In the event the budgets of all such agencies would require an aggregate tax in excess of the maximum permitted by this Section, and unless the Legislature provides a uniform procedure for allocation, the Board of Supervisors for each county and city and county shall apportion the said maximum tax rate.

(e) The tax levied by inter-county taxing agencies, the boundaries of which include all or portions of two or more counties, shall not in the aggregate exceed **FIFTY CENTS** ($0.50) per **ONE HUNDRED DOLLARS** ($100) of assessed valuation of taxable property within all such inter-county agencies. The assessed valuation of taxable property shall be determined without duplication of the value of taxable property lying in whole or in part within the boundaries of more than one inter-county taxing agency. In the event the aggregate budgets of all such agencies would require a tax in excess of the maximum permitted by this Section, the Legislature shall apportion the said maximum tax rate among such agencies in accordance with procedures established for that purpose.

(f) To the extent that the tax limits established for subordinate taxing agencies by paragraphs (a), (b), (c), (d) and (e) of this Section 3 have been exceeded for the fiscal year 1971–1972, the rate of property taxes levied in the fiscal year 1971–1972, exclusive of the rate or rates attributable to the costs of education, the costs of social welfare services, and payments on account of debts or liabilities, shall be the limit for a period of time not to extend beyond the 1976–1977 fiscal year. Commencing in the 1977–1978 fiscal year, the tax limits set forth in said paragraphs (a), (b), (c), (d) and (e) shall be the limits for all such subordinate taxing agencies without exception.

Section 4. For the support of public schools, grades kindergarten through 12, each county or city and county shall levy an additional ad valorem property tax of **TWO DOLLARS** ($2.00) per **ONE HUNDRED DOLLARS** ($100) of assessed valuation of taxable property within each such county or city and county. The State from its General Fund shall allocate and apportion to each county or city and county in each fiscal year, a total base amount of **EIGHT HUNDRED TWENTY-FIVE DOLLARS** ($825) per pupil in average daily attendance in all of the schools within each county or city and county, grades kindergarten through 12, during the preceding fiscal year as certified by the Superintendent of Public Instruction, less the sum per pupil in average daily attendance to be derived from the ad valorem property tax to be levied in accordance with this Section. The base amount may be changed from time to time by the Legislature; provided, further, that the base amount shall be adjusted annually to reflect changes in the cost of living index in a manner to be established by the Legislature. Unless the Legislature provides otherwise, the aggregate amount herein made available for the support of public schools, grades kindergarten through 12, shall be apportioned among the school districts within each county or city and county by the Board of Supervisors of each county or city and county.

Section 5. From and after the effective date of this Section, subordinate taxing agencies may levy ad valorem property taxes for the payment of debts or liabilities, provided the proposition for incurring each debt or liability of each subordinate taxing agency shall have been approved by a two-thirds' majority of the votes cast on such a proposition within the subordinate taxing agency at a statewide primary or general election, or if the subordinate taxing agency is uninhabited, by a petition approved by a two-thirds' majority of property owners within such agency. This Section shall not limit the levy of ad valorem taxes to pay debts or liabilities authorized or outstanding on the effective date hereof, nor be construed to invalidate debts or liabilities outstanding on the effective date hereof. No subordinate taxing agency shall create, incur, or become liable for, any debts or liabilities for payment of operating and maintenance expenses, it being the intent hereof that debts or liabilities shall be incurred only for the purpose of acquiring capital assets or making capital improvements.

Section 6. For the purpose of this Article:

(a) "Ad valorem property taxes" means taxes, assessments, levies, service charges, or charges of any nature levied by the State or any subordinate taxing agency in respect of and determined according to the value of property. The term "ad valorem property taxes" does not mean or include such other taxes and fees imposed pursuant to Parts 10 through 14 of Division 2 of the Revenue and Taxation Code as the same exists on the ef-

fective date hereof or as the same may be after modified or amended.

) "Assessed valuation" means twenty-five per cent (25%) of the full cash value of taxable property, or twenty-five per cent (25%) of the value of taxable property as to which a different standard of value is required under the Constitution. "Assessed valuation of taxable property" means the value of property after the deduction of the value of all exemptions.

(c) "Cost of education" means: (i) all costs and expenses incurred in connection with the acquisition, construction, maintenance, expansion, operation and administration of all kindergarten schools, elementary schools, high schools and technical schools, and all public higher education as defined on January 1, 1971, in Section 22500 of the Education Code; (ii) all costs of every kind and character incurred or expended for any other educational purpose authorized by the Constitution and the Education Code as of the effective date of this Article; and (iii) the cost of establishing and conducting any new educational program, if the costs of such programs are, in whole or in part, to be borne by the expenditure of public funds. The term "costs of education" does not mean or include costs incurred by public agencies other than school districts to provide public library services.

!) "Costs of social welfare services" ns all costs of programs and services authorized by Division 9 of the Welfare and Institutions Code as it reads on January 1, 1971, and any other existing or subsequent statutory provisions relating to the same or similar subject matter, including, without limitation, all costs and expenses incurred in the maintenance, operation and administration of such programs and services, as well as the costs of acquiring capital assets or making capital improvements.

(e) "Debts or liabilities" means indebtedness, the term of which is two (2) years or more, evidenced by (i) bonds, (ii) notes, (iii) loans, (iv) other indebtedness incurred for the purpose of acquiring capital assets or making capital improvements, to the extent the ways and means for the payment thereof shall be from ad valorem property taxes. The term "debts or liabilities" also includes (v) aggregate unpaid rent under lease agreements between subordinate taxing agencies, or between the State and subordinate taxing agencies, the term of which, including options, is two (2) years or more, (vi) obligations arising from terms and conditions of annexation of territory to subordinate taxing agencies, and (vii) obligations arising from contracts between subordinate taxing agencies and other subordinate taxing agen- the State or Federal Government or de- ments or agencies of either, all to the extent the ways and means for the payment thereof shall be from ad valorem property taxes.

(f) "Intra-county taxing agency" or "inter-county taxing agency" means any subordinate taxing agency except counties, cities, city and counties, and school districts.

(g) "School districts" means all Elementary School Districts, High School Districts, and Unified School Districts (serving grades kindergarten through 12) authorized by the statutes of this State.

(h) "Statewide primary or general election," for the purpose of this Article, shall be considered to include any local election which is consolidated with and held at the same time as an election held throughout the State.

(i) "Subordinate taxing agency" means any department or subdivision of the State or any public entity therein, including, without limitation, each county, city and county, city, school district, district, authority, or other public corporation or entity, and any taxing zone, district, or other area therein, which is supported in whole or in part by ad valorem property taxes or which has the power to levy ad valorem property taxes.

Section 7. The rate of State sales and use taxes imposed pursuant to Part 1 of Division 2 of the Revenue and Taxation Code shall be Six Per Cent (6%). The rate of local sales and use taxes imposed pursuant to Part 1.5 of Division 2 of the Revenue and Taxation Code shall be One Per Cent (1%). Said rates may be increased by an Act passed by not less than two-thirds' vote of all members elected to each of the two houses of the Legislature, or may be decreased by an Act passed by not less than a majority of all members elected to each of the two houses of the Legislature. No tax shall be imposed on the retail sale of any prescription medicine or food products which were exempt from such taxation on January 1, 1971. The Legislature may provide for the administration and collection of sales and use taxes at the county level. To the extent not inconsistent herewith and unless otherwise modified or amended by the Legislature, the provisions of Part 1 and 1.5 of Division 2 of the Revenue and Taxation Code shall continue in full force and effect.

Section 8. From and after the effective date of this Article, any changes in the Personal Income Tax Law enacted for the purpose of increasing revenues collected pursuant thereto, whether by virtue of increased rates, changes in methods of computing taxable income, changes in deductions, exclusions or credits, or otherwise, must be imposed by an Act passed by not less than two-thirds' vote of all members elected to each of the two houses of the Legislature.

Section 9. From and after the effective date of this Article:

(a) The aggregate tax imposed by the State on the distribution of cigarettes shall be not less than ONE CENT ($0.01) per cigarette.

(b) The excise tax imposed by the State on the distribution of distilled spirits shall be not less than TWO DOLLARS FIFTY CENTS ($2.50) per wine gallon on all distilled spirits of proof strength, or less, and FIVE DOLLARS ($5.00) per wine gallon on all distilled spirits in excess of proof strength and at a proportionate rate for any quantity.

(c) A severance tax shall be imposed by the State on every person severing or extracting hydrocarbon substances and other minerals, other than water and steam, from the earth and the territorial seas and waters of this State, measured by the full cash value of the product severed or extracted, at a rate equal to the combined rate for state and local sales and use taxes. Any person paying such severance taxes may deduct from the severance taxes so paid the amount of ad valorem property tax paid in the preceding fiscal year on the taxable mining or mineral right in the product or in the property from which the product taxed under this Section has been produced or extracted. This Section shall not be deemed to preclude cities from levying a license tax on the business or activity of extracting or producing such substances, whether measured by value, by quantity or otherwise.

Section 10. From and after the effective date of this Article, the exemption of property, in whole or in part, from ad valorem property tax, or the classification of property resulting in a reduced tax on such property, must be approved by a majority of the votes cast on such a proposition at a statewide primary or general election.

Section 11. From and after the effective date of this Article, household furnishings and personal effects shall be exempt from taxation.

Second, that Section 16 of ARTICLE XIII be amended to read:

SEC. 16. ~~1. (a) Banks, including national banking associations, located within the limits of this State, shall annually pay to the State a tax, at the rate to be provided by law according to or measured by their net income, which shall be in lieu of all other taxes and licenses, state, county and municipal, upon such banks, or the shares thereof, except taxes upon their real property and, when permitted by the Congress of the United States with respect to national banking associations, motor vehicle and other vehicle registration license fees and any other tax or license fee imposed by the State upon vehicles, motor vehicles or the operation thereof.~~

~~(b) The Legislature may provide by law for any other form of taxation now or hereafter permitted by the Congress of the United States respecting national banking associations; provided, that such form of taxation shall apply to all banks located within the limits of this State.~~

~~2. The Legislature may provide by law for the taxation of corporations, their franchises, or any other franchises, by any method not prohibited by this Constitution or the Constitution or laws of the United States.~~

~~3. Any tax imposed pursuant to this se must be under an act passed by not less than two-thirds vote of all the members elected to each of the two houses of the Legislature.~~

The Legislature shall provide by law for the uniform taxation of corporations, including insurance companies and State and National banking associations, their franchises, or any other franchises, by any form of taxation not prohibited by this Constitution or the Constitution or laws of the United States. To the extent not inconsistent herewith and unless otherwise modified or amended by the Legislature, the provisions of Part 11 of Division 2 of the Revenue and Taxation Code shall continue in full force and effect. Taxes according to or measured by net income imposed pursuant to Part 11 of Division 2 of the Revenue and Taxation Code shall be computed, except as herein provided, commencing January 1, 1972, at a uniform rate of Eleven Per Cent (11%). The net income of insurance companies shall be the taxable income described for such companies in the Internal Revenue Code, as amended, allocated to this State by the ratio of premiums received in this State to all premiums received. Taxes according to or measured by net income imposed on insurance companies shall be computed commencing January 1, 1973, at a uniform rate of Eleven Per (11%). The rates herein provided ma changed by an Act passed by not less than two-thirds' vote of all members elected to each of the two houses of the Legislature.

Third, that Section 14 4/5 of ARTICLE XIII is repealed.

~~SEC. 14 4/5. (a) "Insurer," as used in this section, includes insurance companies or associations and reciprocal or interinsurance exchanges together with their corporate or other attorneys in fact considered as a single unit, and the State Compensation Insurance Fund. As used in this paragraph, "companies" includes persons, partnerships, joint stock associations, companies and corporations.~~

~~(b) An annual tax is hereby imposed on each insurer doing business in this state on the base, at the rates, and subject to the deductions from the tax hereinafter specified.~~

~~(c) In the case of an insurer not transacting title insurance in this state, the "basis of the annual tax" is, in respect to each year, the amount of gross premiums, less return premiums, received in such year by such insurer upon its business done in this state, other than premiums received for reinsurance and for ocean marine insurance.~~

~~In the case of an insurer transacting title insurance in this state, the "basis of the annual tax" is, in respect to each year, all income upon business done in this state, except:~~

~~(1) Interest and dividends.~~

~~(2) Rents from real property.~~

~~(3) Profits from the sale or other disposition of investments.~~

~~(4) Income from investments.~~

~~"Investments" as used in this subdivision (a) includes property acquired by such insurer in the settlement or adjustment of claims against it but excludes investments in title plants and title records. Income derived directly or indirectly from the use of title plants and title records is included in the basis of the annual tax.~~

~~In the case of an insurer transacting title insurance in this state which has a trust department and does a trust business under the banking laws of this state, there shall be excluded from the basis of the annual tax imposed by this section, the income of, and from the assets of, such trust department and such trust business, if such income is taxed by this state or included in the measure of any tax imposed by this state.~~

~~(d) The rate of the tax to be applied to the basis of the annual tax in respect to each year is 2.35 percent.~~

~~(e) (1) Each insurer shall have the right to deduct from the annual tax imposed by this section upon such insurer in respect to a particular year the amount of real estate taxes paid by it, in that year, before, or within 30 days after, becoming delinquent, on real property owned by it at the time of payment, and in which was located, in that year, its home office or principal office in this state. Such real property may consist of one building or of more adjacent buildings in which such an office is located, the land on which they stand, and so much of the adjacent land as may be required for the convenient use and occupation thereof.~~

~~(2) In the event a portion of the real property described in paragraph (1) of this subdivision is occupied by a person or persons other than the insurer the deduction granted the insurer by said paragraph shall be limited to that percentage, not to exceed 100 percent, equal to the sum of (i) the percentage of occupancy of the insurer obtained by deducting from 100 percent the ratio that the square footage of said building or buildings occupied by the person or persons other than the insurer bears to the total square footage of said building or buildings plus (ii) the lesser of one-half of said percent of occupancy of the insurer or 25 percent, provided, however, that the limitation set forth in this paragraph shall not be applicable to such real property occupied by a domestic insurer as its home office or principal office in this state on January 1, 1970, or to such real property upon which construction of the home office or principal office of the domestic insurer commenced prior to January 1, 1970. As used in this paragraph, "domestic insurer" means an insurer organized under the laws of this state and licensed to transact insurance in this state on or before December 31, 1966.~~

~~(3) The phrase "person or persons other than the insurer" as used in paragraph (2) of this subdivision shall not include (i) another insurance company or association affiliated directly or indirectly with the insurer through direct ownership or common ownership or control, or (ii) the corporate or other manager of the insurer to the extent of its insurance management activities. The Legislature may define the terms used in this paragraph for the sole purpose of facilitating the operation of this paragraph.~~

~~(f) The tax imposed on insurers by this section is in lieu of all other taxes and licenses, state, county, and municipal, upon such insurers and their property, except:~~

~~(1) Taxes upon their real estate.~~

~~(2) That an insurer transacting title insurance in this state which has a trust department or does a trust business under the banking laws of this state is subject to taxation with respect to such trust department or trust business to the same extent and in the same manner as trust companies and the trust departments of banks doing business in this state.~~

~~(3) When by or pursuant to the laws of any other state or foreign country any taxes, licenses and other fees, in the aggregate, and any fines, penalties, deposit requirements or other material obligations, prohibitions or restrictions are or would be imposed upon California insurers, or upon the agents or representatives of such insurers, which are in excess of such taxes, licenses and other fees, in the aggregate, or which are in excess of the fines, penalties, deposit requirements or other obligations, prohibitions, or restrictions directly imposed upon similar insurers, or upon the agents or representatives of such insurers, of such other state or country under the statutes of this state, so long as such laws of such other state or country continue in force or are so applied, the same taxes, licenses and other fees, in the aggregate, or fines, penalties or deposit requirements or other material obligations, prohibitions, or restrictions, of whatever kind shall be imposed upon the insurers, or upon the agents or representatives of such insurers, of such other state or country doing business or seeking to do business in California. Any tax, license or other fee or other obligation imposed by any city, county, or other political subdivision or agency of such other state or country on California insurers or their agents or representatives shall be deemed to be imposed by such state or country within the meaning of this paragraph (3) of subdivision (f).~~

~~The provisions of this paragraph (3) of subdivision (f) shall not apply as to personal income taxes, nor as to ad valorem taxes on real or personal property nor as to special purpose obligations or assessments heretofore imposed by another state or foreign country in connection with particular kinds of insurance, other than property insurance; except that deductions, from premium taxes or other taxes otherwise payable, allowed on account of real estate or personal property taxes paid~~

~~shall be taken into consideration in determining the propriety and extent of retaliatory action under this paragraph (3) of subdivision (f).~~

~~For the purposes of this paragraph (3) of subdivision (f) the domicile of an alien insurer, other than insurers formed under the laws of Canada, shall be that state in which is located its principal place of business in the United States.~~

~~In the case of an insurer formed under the laws of Canada or a province thereof, its domicile shall be deemed to be that province in which its head office is situated.~~

~~The provisions of this paragraph (3) of subdivision (f) shall also be applicable to reciprocals or interinsurance exchanges and fraternal benefit societies.~~

~~(4) The tax on ocean marine insurance.~~

~~(5) Motor vehicle and other vehicle registration license fees and any other tax or license fee imposed by the state upon vehicles, motor vehicles or the operation thereof.~~

~~(6) That each corporate or other attorney in fact of a reciprocal or interinsurance exchange shall be subject to all taxes imposed upon corporations or others doing business in the state, other than taxes on income derived from its principal business as attorney in fact.~~

~~A corporate or other attorney in fact of each exchange shall annually compute the amount of tax that would be payable by it under prevailing law except for the provisions of this section, and any management fee due from each exchange to its corporate or other attorney in fact shall be reduced pro tanto by a sum equivalent to the amount so computed.~~

~~(g) Every insurer transacting the business of ocean marine insurance in this state shall annually pay to the state a tax measured by that proportion of the underwriting profit of such insurer from such insurance written in the United States, which the gross premiums of the insurer from such insurance written in this state bear to the gross premiums of the insurer from such insurance written within the United States, at the rate of 5 per centum, which tax shall be in lieu of all other taxes and licenses, state, county and municipal, upon such insurer, except taxes upon real estate, and such other taxes as may be assessed or levied against such insurer on account of any other class of insurance w[illegible] by it. Deductions from the annual tax[illegible] suant to subdivision (c) cannot be made [illegible]rom the ocean marine tax. The Legislature shall define the terms "ocean marine insurance" and "underwriting profit," and shall provide for the assessment, levy, collection and enforcement of the ocean marine tax.~~

~~(h) The taxes provided for by this section shall be assessed by the State Board of Equalization.~~

~~(i) The Legislature, two-thirds of all the members elected to each of the two houses voting in favor thereof, may by law change the rate or rates of taxes herein imposed upon insurers.~~

~~(j) This section is not intended to and does not change the law as it has previously existed with respect to the meaning of the words "gross premiums, less return premiums, received" as used in this section or as used in Section 14 or 14¾ of this article.~~

Fourth, that this Article shall be liberally construed to carry out its purposes, and the Legislature shall pass all laws necessary to carry out its provisions. To the extent that the Legislature shall fail to enact such laws, the appropriate officers of the State and each subordinate taxing agency therein are authorized and directed to proceed to carry out the provisions of this Article, and [illegible] action of such officers may be compell[illegible] any citizens of this State by mandamus. If any section, part, clause, or phrase hereof is for any reason held to be invalid, it is intended that all the remainder shall continue to be fully effective.

Fifth, that except as herein provided, the effective date of this Article shall be the beginning of the fiscal year immediately following approval by a majority of the votes cast therefor. For the 1972–1973 unsecured property tax roll only, the effective date of this Article shall be one year from the beginning of the fiscal year immediately following approval by a majority of the votes cast therefor. Section 14¾ of ARTICLE XIII shall be repealed at 11:59 p.m. on December 31, 1972.

15 **STATE EMPLOYEE SALARIES. Initiative Constitutional Amendment.** Requires State Personnel Board, University of California Regents, and State University and College Trustees semiannually to determine prevailing rates in private and public employment for services comparable to those performed by state employees, and recommend to Governor adjustments to state employee salaries and benefits necessary to equal prevailing rates. The recommendations must be included in Governor's budget, cannot be reduced or eliminated except by two-thirds vote of Legislature, and are not subject to Governor's veto. Provides for written agreements and arbitration between state and employees on other employer-employee relation matters. Financial impact: Indeterminable but potential major cost increase.

YES	
NO	

(This Initiative Constitutional Amendment proposes to add a new article to the Constitution. It does not amend any part of the existing Constitution. Therefore, the provisions thereof are printed in **BOLDFACE TYPE** to indicate that they are **NEW**.)

PROPOSED ARTICLE XXV

Article XXV

State Employer-Employee Relations

Section 1. (a) This article shall be known as the State Employer-Employee Relations Article.

(b) This article shall be applicable to the State of California, including the University of California, the California State Universities and Colleges, and every agency of state government. "Employee" includes persons employed by or retired from the State of California except those persons elected by popular vote or appointed by the Governor.

Section 2. The State Personnel Board, Regents of the University of California, and the Trustees of the California State University and Colleges, each shall determine semiannually the generally prevailing rates for comparable services in private business and public employment and shall file an annual report with the Governor supported by findings of fact and recommendations as to funds, if any, necessary to adjust the salaries and other benefits of state employees during the succeeding fiscal year. Such salaries and benefits shall be equal to general prevailing rates. The findings and recommendations shall be transmitted by the Governor to the Legislature as a part of the budget and cannot be reduced or eliminated except by a two-thirds vote of the membership of each house of the Legislature. This part of the enrolled budget bill cannot be reduced or eliminated by the Governor. Any modification ordered by the Legislature shall apply uniformly to all employees affected by the increases and shall not adjust salary differentials.

Section 3. (a) All matters relating to employer-employee relations, and terms and conditions of employment except those provided for in Article XXIV and Section 2 of this article, are to be resolved by written agreement between the state appointing powers and majority employee organizations, freely elected by secret ballot. Disputes between the state and its employees shall be resolved by independent arbitration if requested by either party.

(b) The Legislature shall appropriate sufficient funds to administer this article and statutes enacted pursuant thereto.

16 **SALARIES. CALIFORNIA HIGHWAY PATROL. Initiative Constitutional Amendment.** Requires State Personnel Board to: (1) determine maximum salary for each class of policemen or deputy sheriff in each city and county within state, (2) adjust salaries of uniformed members of Highway Patrol to at least the maximum rate paid policemen or deputy sheriffs within comparable classes, and (3) report annually to Governor on its determinations and adjustments. Requires Governor to provide in budget for full implementation of these determinations and adjustments. These budget provisions can be modified or stricken only by two-thirds vote of Legislature voting solely on this issue. Financial impact: Indeterminable but potential major cost increase.

YES	
NO	

(This Initiative Constitutional Amendment proposes to add a new section to the Constitution. Therefore, the provisions thereof are printed in **BOLDFACE TYPE** to indicate that they are **NEW**.)

PROPOSED AMENDMENT TO ARTICLE XXIV

Section 8.

(a) The State Personnel Board shall, at least semi-annually, determine the then existing maximum rate of salary established by each city and county within the State for

each class of position of policemen or deputy sheriffs employed by such city or county.

(b) Effective July 1, 1973 and effective July 1 of each year thereafter, the board shall adjust and determine the maximum rate of salary for each class of position of uniformed members of the California Highway Patrol to be at least equal to the highest maximum rate of salary then established for any policemen or deputy sheriffs employed within the State in a comparable class of position.

(c) The Board shall make an annual written report to the Governor of its findings and the adjustments and determinations of rates of salary made pursuant to this section.

(d) Commencing with the budget for fiscal year 1973–74, any budgetary provisions required to fully implement the periodic salary adjustments and determinations required by this section shall be included in each annual budget submitted by the Governor to the Legislature and shall be modified or stricken therefrom except by two-thirds (⅔) vote of each of the Senate and of the Assembly voting solely on the issue of such provisions and on no other matter.

(e) As used herein, the term "comparable class of position" shall mean a group of positions substantially similar with respect to qualifications or duties or responsibilities.

(f) The provisions of this section shall prevail over any otherwise conflicting provisions of this article which may relate generally to salaries of civil service employees or to salaries of State Employees who are not elected by popular vote.

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17 **DEATH PENALTY. Initiative Constitutional Amendment.** Amends California Constitution to provide that all state statutes in effect February 17, 1972 requiring, authorizing, imposing, or relating to death penalty are in full force and effect, subject to legislative amendment or repeal by statute, initiative or referendum; and that death penalty provided for under those state statutes shall not be deemed to be, or constitute, infliction of cruel or unusual punishments within meaning of California Constitution, article I, section 6, nor shall such punishment for such offenses be deemed to contravene any other provision of California Constitution. Financial impact: None.

YES	
NO	

(This Initiative Constitutional Amendment proposes to add a new section to the Constitution. Therefore, the provisions thereof are printed in **BOLDFACE TYPE** to indicate that they are **NEW.**)

PROPOSED AMENDMENT TO ARTICLE I

Sec. 27. All statutes of this state in effect on February 17, 1972, requiring, authorizing, imposing, or relating to the death penalty are in full force and effect, subject to legislative amendment or repeal by statute, initiative, or referendum.

The death penalty provided for under those statutes shall not be deemed to be, or to constitute, the infliction of cruel or unusual punishments within the meaning of Article 1, Section 6 nor shall such punishment for such offenses be deemed to contravene any other provision of this constitution.

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18 **OBSCENITY LEGISLATION. Initiative.** Amends, deletes, and adds Penal Code statutes relating to obscenity. Defines nudity, obscenities, sadomasochistic abuse, sexual conduct, sexual excitement and other related terms. Deletes "redeeming social importance" test. Limits "contemporary standards" test to local area. Creates misdemeanors for selling, showing, producing or distributing specified prohibited materials to adults or minors. Permits local governmental agencies to separately regulate these matters. Provides for county jail term and up to $10,000 fine for violations. Makes sixth conviction of specified misdemeanors a felony. Creates defenses and presumptions. Permits injunctions and seizures of materials. Requires speedy hearing and trial. Financial impact: None.

YES	
NO	

(This Initiative Measure proposes to amend and add sections and chapters of the Penal Code. Therefore, **EXISTING PROVISIONS** proposed to be **DELETED** are printed in ~~STRIKEOUT TYPE~~ and **NEW PROVISIONS** proposed to be **INSERTED** or **ADDED** are printed in **BOLDFACE TYPE.**)

PROPOSED LAW

SECTION 1. Section 311 of the Penal Code is amended to read:

311. As used in this chapter:

(a) "Obscene matter" means matter, taken as a whole, the predominant appeal of which to the average person, applying contemporary standards, is to prurient interest, i.e., a shameful or morbid interest in nudity, sex, or excretion; and is matter which taken as a whole goes substantially beyond customary limits of candor in description or representation of such matters ~~; and is matter which~~

~~taken as a whole is utterly without redeeming social importance~~.

The predominant appeal to prurient inte- of the matter is judged with reference to average adults unless it appears from the nature of the matter or the circumstances of its dissemination, distribution or exhibition, that it is designed for clearly defined deviant sexual groups, in which case the predominant appeal of the matter shall be judged with reference to its intended recipient group.

(2) In prosecutions under this chapter, here circumstances of production, presentalic sale, dissemination, distribution, or pubcially dicate that matter is being commersake of loited by the defendant for the probative urient appeal, such evidence is matter and respect to the nature of the the matter is ustify the conclusion that cial importance. without redeeming so-

(b) "Matter" mea newspaper or other prin book, magazine, rial or any picture, dra or written matemotion picture, or other pict photograph, tion or any statue or other figu representacording, transcription or mechan any reical or electrical reproduction or l chemarticles, equipment, machines or matother

(c) "Person" means any individual, nership, firm, association, corporation o legal entity.

"Distribute" means to transfer possession of, whether with or without consideration.

(e) "Knowingly" means being aware of the character of the matter or live conduct.

(f) "Exhibit" means to show.

(g) "Obscene live conduct" means any physical human body activity, whether performed or engaged in alone or with other persons, including but not limited to singing, speaking, dancing, acting, simulating, or pantomiming, where, taken as a whole, the predominant appeal of such conduct to the average person, applying contemporary standards is to prurient interest, i.e., a shameful or morbid interest in nudity, sex, or excretion; and is conduct which taken as a whole goes substantially beyond customary limits of candor in description or representation of such matters ~~; and is conduct which taken as a whole is utterly without redeeming social importance~~.

(1) The predominant appeal to prurient interest of the conduct is judged with reference to average adults unless it appears from the nature of the conduct or the circumstances of its production, presentation or exhibition, that it is designed for clearly defined deviant sexual groups, in which case the predominant appeal of the conduct shall b dged with reference to its intended re- t group.

(2) In prosecutions under this chapter, where circumstances of production, presentation, advertising, or exhibition indicate that live conduct is being commercially exploited by the defendant for the sake of its prurient appeal, such evidence is probative with respect to the nature of the conduct and can justify the conclusion that the conduct is utterly without redeeming social importance.

(h) "Contemporary standards" means the standards generally prevailing in the incorporated area in which the activity complained of occurred. If the area in which such activity occurred is unincorporated, "contemporary standards" means the standards generally prevailing within a 10-mile radius of the area in which such activity occurred.

SECTION 2. Section 313 of the Penal Code is amended to read:

313. As used in this chapter:

(a) "Harmful matter" means matter, taken as a whole, the predominant appeal of which to the average person, applying contemporary standards, is to prurient interest, i.e., a shameful or morbid interest in nudity, sex, or excretion; and is matter which taken as a whole goes substantially beyond customary limits of candor in **the** description or representation of such matters ~~; and is matter which taken as a whole is utterly without redeeming social importance for~~ **to** minors.

(1) When it appears from the nature of the matter or the circumstances of its dissemination, distribution or exhibition that it s designed for clearly defined deviant sexual ups, the predominant appeal of the inter shall be judged with reference to its

(2) d recipient group.

where cprosecutions under this chapter, tation, salstances of production, presenpublicity indissemination, distribution, or mercially explo that matter is being comsake of its pruri by the defendant for the probative with resp appeal, such evidence is matter and can justi to the nature of the the matter is utterly the conclusion that social importance for mino thout redeeming

(b) "Matter" means any book, magazine, newspaper, or other printed or written material or any picture, drawing, photograph, motion picture, or other pictorial representation or any statue or other figure, or any recording, transcription, or mechanical, chemical, or electrical reproduction or any other articles, equipment, machines, or materials.

(c) "Person" means any individual, partnership, firm, association, corporation, or other legal entity.

(d) "Distribute" means to transfer possession of, whether with or without consideration.

(e) "Knowingly" means being aware of the character of the matter.

(f) "Exhibit" means to show.

(g) "Minor" means any natural person under 18 years of age.

(h) "Contemporary standards" means the standards generally prevailing in the incor-

porated area in which the activity complained of occurred. If the area in which such activity occurred is unincorporated, "contemporary standards" means the standards generally prevailing within a 10-mile radius of the area in which such activity occurred.

SECTION 3. Section 311.3 is added to the Penal Code, to read:

(a) It is a public nuisance for any person to distribute, offer to sell, loan or exhibit any matter containing any picture, photograph, drawing or other visual representation which explicitly reveals post-pubertal male or female genitals, or which portrays or depicts sadomasochistic abuse, sexual excitement or sexual conduct, within one mile measured in a straight line of any building used as a private or public elementary or high school, or of any public park.

(b) Defenses set forth in Section 313.12 of Chapter 7.7 and Section 313.27(b) of Chapter 7.8 of this title shall apply also to this section. The burden of proof in such defenses, by a preponderance of the evidence, shall be upon the defendant.

(c) Definitions for the terms "sadomasochistic abuse," "sexual conduct" and "sexual excitement" which are set forth in Section 313.6 of Chapter 7.7 of this title shall apply to this section.

Section 4. Chapter 7.7 (commencing with Section 313.6) is added to Title 9 of Part 1 of the Penal Code, to read:

Chapter 7.7 [illegible] and

313.6 AS USED IN CHAPTER[illegible] 7.8 of this title: [illegible]eans pur-

(a) "Advertising purposes"[illegible]nection with poses of propagandizing in[illegible]roduct or type the sale commercially of [illegible]or the offering of product or produc[illegible], or the exhibiting commercially of a ser[illegible]tertainment.

commercially of an[illegible]icly" means the expos-

(b) "Displays [illegible]ng, exhibiting, or in any ing, placing, po[illegible]ng in any location, whether fashion displayed an item in such a manner public or private [illegible]adily seen and its content or that it may be readily [illegible]ed by normal unaided character distinguished [illegible]om a public thoroughfare, vision viewing it. It also includes the giving depot, or [illegible]bills in a public thoroughfare, out of a vehicle.

dery "Exhibition" shall include, but not be limited to, motion picture and television productions.

(d) "Live public show" means a public show in which human actors, dancers, or other performers, employees, or other persons appear in person before spectators or customers.

A bona fide drawing, painting, photography, sculpture, or fine print-making class which utilizes human models and which admits only participating instructors, students, and models, and which does not in any way use, display or exhibit sadomasochistic abuse, sexual conduct, sexual excitement, defacation or urination shall not be deemed a live public show.

(e) "Knowingly" means having knowledge of the character of any item or activity described in chapter 7.7 or 7.8 of this title, or having failed to exercise reasonable care to ascertain its character.

(f) "Minor" means any person under the age of eighteen years.

(g) "Nudity" means uncovered post-pubertal human male or female genitals, pubic areas, or buttocks, or the human female breast below a point immediately above the top of the nipple (or the breast with the nipple and immediately adjacent area only covered), or the covered male penis in a discernibly turgid state.

(h) "Obscenities" means [illegible]ed for regular use in mixed society words currently generally [illegible]t are used to refer to genitals, butto[illegible] or female breasts, products, or sexual or excretory functio[illegible]ave no other meaning, conduct either th[illegible] are clearly utilized for their bodily[illegible]ly generally rejected" are to or that in conta[illegible]al, or excretory meaning. "Words cu[illegible]d with reference to prevailing be determ[illegible]ne local community in which practi[illegible]uage complained of was used.

the "Person" means any person, associa[illegible], corporation, or business entity, or any [illegible]ployee thereof.

(j) "Public show" means any entertainment or exhibition advertised or in [illegible] fashion held out to be accessible to the [illegible]lic, whether or not an admission or other charge is levied or collected.

An entertainment or exhibition shall be deemed a public show although access to it is only granted to members of a club or other association, when membership in such organization is obtained upon payment of an admission price or contribution or token dues or other small fee, and the organization in fact exists primarily for sponsoring or arranging admissions to such performances.

(k) "Public thoroughfare, depot, or vehicle" means any street, highway, park, arcade, depot, or transportation platform, or other place, whether indoors or out, or any vehicle for public transportation, owned or operated by government, either directly or through a public corporation or authority, or owned or operated by any agency of public transportation, that is designed for the use, enjoyment, or transportation of the citizenry.

(l) "Sadomasochistic abuse" means flagellation or torture by or upon a human who is nude, or clad in undergarments, or in revealing or bizarre costume, or the condition of one who is nude or so clothed and is being fettered, bound, tied or in similar fashion restrained.

(m) "Sells or offers to sell" means [illegible] or offering for monetary consideration [illegible] other valuable commodity or services.

(n) "Sexual conduct" means human masturbation, sexual intercourse, or any touch-

ing of the genitals, pubic areas, or buttocks of the human male or female, or the breasts of the female, whether alone or between members of the same or opposite sex or between humans and animals in an act of apparent sexual stimulation or gratification. "Sexual conduct" shall include the touching of the genitals of an animal in an act of apparent sexual stimulation or gratification.

(o) "Sexual excitement" means the condition of human male or female genitals, or the breasts of the female, when in a state of sexual stimulation, or the sensual experiences of humans engaging in or witnessing sexual conduct or nudity or sadomasochistic abuse.

313.7. Any person shall be guilty of a misdemeanor who, in any capacity, knowingly directs, gives, manages, participates in, prepares, or presents, or who employs others so to do, any live public show explicitly showing sadomasochistic abuse, sexual conduct, or nudity, or containing explicit verbal descriptions or narrative accounts of sadomasochistic abuse, sexual conduct, or sexual excitement or utilizing obscenities.

313.8. Any person shall be guilty of a misdemeanor who, in any capacity, knowingly:

(a) Directs, distributes, exhibits, manages, photographs, produces, sells, or shows, or possesses with intent to sell or to show, or participates in the creation, presentation, sale, or transfer, of any motion picture, television production, or of any photograph, or any book, magazine, or other item, containing one or more photographs, of humans:

(1) That, showing sadomasochistic abuse, sexual conduct, or defecation or urination, explicitly reveals genital areas; or

(2) That, intended to be presented at a public show, explicitly reveals acts of sadomasochistic abuse, sexual conduct, defecation, or urination, or persons so positioned as to appear to be engaged in such conduct, and that shows the nude or nearly nude body, although genital areas are not pictured; or

(3) That utilizes obscenities

(b) With intent to present it at a public show, directs, distributes, exhibits, manages, photographs, produces, sells, shows, or possesses, or participates in the creation, presentation, sale, or transfer, of any motion picture or television production of humans:

(1) That explicitly reveals genital areas; or

(2) That either reveals sexual acts of homosexual or bestial contact, or that shows the participants in or witnesses to such suggested acts moments prior to, or during, or moments after such suggested acts.

(c) Draws, exhibits, paints, presents, distributes, sells, shows, or participates in the creation or presentation of any drawing, picture, sculpture, or other essentially nonphotographic visual representation or other image, or any book, magazine, or other item containing one or more such images that, presented at a public show, shows sadomasochistic abuse, sexual conduct, sexual excitement, defecation, or urination, so as to reveal genital areas.

313.9. Any person shall be guilty of a misdemeanor who, in any capacity, knowingly distributes, leases, sells, or otherwise commercially markets or rents any book, magazine, pamphlet, paperback, or other written or printed matter however reproduced, or any sound recording, or who possesses such item for purposes of so disposing of it, under circumstances demonstrating his intention to exploit commercially a morbid interest in sadomasochistic abuse, sexual conduct, sexual excitement, defecation, or urination. Among those circumstances that may, taken together, serve to demonstrate the actor's intention are:

(a) The content of the item with regard to materials it contains in the enumerated proscribed areas.

(b) The content of the item, if any, apart from those materials it contains in the enumerated proscribed areas, and the relative significance of that content in the advertising or marketing of the item.

(c) The artistic, scientific, historical, or other social values of the item, and the relative significance of such values in the advertising or marketing of the item.

(d) The general character of the advertising or marketing of the item, and that of other items jointly advertised or marketed with the item.

(e) The format, price, and distribution of the item.

313.10. Every person is guilty of a misdemeanor who

(a) Sings or speaks any song, ballad, or other combination of words which describes or depicts sadomasochistic abuse, sexual conduct, sexual excitement, defecation or urination, or which uses obscenities, in any public show, live public show, motion picture, television production, or other exhibition or medium reproducing human conduct, or in any public place.

(b) Procures, counsels, or assists any person to engage in such conduct, or who knowingly exhibits or procures, counsels, or assists in the exhibition of a motion picture, television production, or other mechanical reproduction containing such conduct.

313.11. (a) There is a rebuttable presumption applicable to the foregoing provisions of this chapter that any person owning, operating, or employed in the business of selling, offering for sale, renting, or exhibiting any of the materials proscribed by this chapter has knowledge of the contents of all such materials offered for sale, delivered from, exhibited, shown, rented, or displayed in the premises owned or operated by him or in which he is employed.

(b) The provisions of this section shall not apply where the defendant makes a showing that, at the time of his arrest:

(1) He was a salaried employee of the business, and

(2) He had no interest in the business beyond his salary or wage, and

(3) He was under the direct personal supervision of an owner, manager or operator of the business, who is a resident of this state and who is not exempt from prosecution under the provisions of this chapter.

313.12. The following shall be defenses to the charges enumerated in the foregoing sections of this chapter, the burden of proof of which, by a preponderance of the evidence, shall be upon the defendant:

(a) That those aspects of any item that would otherwise appear to be actionable under this chapter form merely a minor and incidental part of an otherwise non-offending whole, and that sexual titillation is not one of their primary purposes, except that no sexual conduct beyond an apparent touching of the unexposed buttocks or female breast be permitted in any live public show, nor shall any sexual conduct that explicitly reveals genital areas be permitted in any public show, nor shall any book, magazine, or other item contain any photograph of humans that, showing sadomasochistic abuse, sexual conduct, defecation or urination, explicitly reveals genital areas.

(b) That sexual titillation is not a primary purpose of those aspects of any item that would otherwise appear to be actionable under this chapter, and that such aspects are essential to the accomplishment of such primary purpose or purposes, and that a bona fide governmental, scientific, or other similar justification for defendant's conduct relating to such aspects of such items exists, demonstrated by the content, format, and price of the work itself, the circumstances of the item's marketing and intended use, and the defendant's conduct concerning it.

313.13. If any provision of this chapter or the application of this chapter to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are declared to be severable.

Section 5. Chapter 7.8 (commencing with Section 313.20) is added to Title 9 of Part 1,

Chapter 7.8.

313.20. Definitions appearing in Section 313.6 of Chapter 7.7 of Title 9 of Part 1 of this Code shall apply to this chapter.

313.21. Any person shall be guilty of a misdemeanor who knowingly sells or offers to sell to a minor any of the following:

(a) Any picture, photograph, drawing, sculpture, motion picture, film, or other visual representation or image of a person or portion of the human body that depicts nudity, sadomasochistic abuse, sexual conduct, or sexual excitement; or

(b) Any book, magazine, paperback, pamphlet, or other written or printed matter however reproduced, or any sound recor[illegible], which contains any matter enumerated [illegible] immediately preceding paragraph, or obscenities, or explicit verbal descriptions or narrative accounts of sexual conduct, sexual excitement, or sadomasochistic abuse.

313.22. Any person shall be guilty of a misdemeanor who, for a monetary consideration or other valuable commodity or service, within this state, arranges for or dispatches for delivery directly to any minor, whether the delivery is to be made within or outside of this state, any of the materials enumerated in Section 313.21. However, unless the defendant either was informed or had reason to suspect that the customer or prospective customer was a minor, he shall not be guilty of a misdemeanor when he has caused to be printed on the outer package, wrapper, or cover of the merchandise to be delivered, in words or substance, "This package (wrapper) (publication) contains material that, by California law, may not be sold directly to a minor." This section does not render the carrier's conduct, or that of its agents or employees, criminal.

313.23. Any person shall be guilty of a misdemeanor who, for a monetary consideration or other valuable commodity or service, knowingly exhibits to a min[illegible]r, or knowingly sells or offers to sell to a minor an admission ticket or other means to gain entrance [illegible] knowingly admits a minor to pre[illegible] whereon there is exhibited a motion picture, show, or other presentation, whether pic[illegible]tured, animated, or live, which in whole or in part depicts or reveals nudity, sexual con[illegible]duct, sexual excitement, or sadomasochistic abuse, or the participants in or onlookers at acts in progress of sadomasochistic abuse or sexual conduct, or which includes obscenities or explicit verbal descriptions or narrative accounts of sexual conduct.

313.24. Any person shall be guilty of a misdemeanor who, while either operating or being employed in a sales, cashier, or managerial capacity in any retail establishment, knowingly suffers or permits a minor to enter or remain on such premises, if therein in that portion where the minor is present:

(a) Any picture, photograph, drawing, sculpture, or other visual representation or image of a person or portion of the human body that depicts nudity, sexual conduct, sadomasochistic abuse, defecation or urination is visibly displayed.

(b) Any book, magazine, pamphlet, paperback, or other written or printed matter however reproduced is so displayed that it visibly reveals a person or portion of the human body depicting nudity, sexual conduct, sadomasochistic abuse, defecation or urination.

313.25. The following rebuttable [illegible]sumptions shall apply to the foregoing provisions of this chapter:

(a) Any person owning, operating, or employed in the business of selling, offering for sale, renting, or exhibiting any of the materials proscribed by this chapter shall be presumed to have knowledge of the contents of all such materials offered for sale, delivered from, exhibited, shown, rented, or displayed in the premises owned or operated by him or in which he is employed.

(b) The sale, offer to sell, exhibition, show, or display to a minor of any of the items proscribed by this chapter, shall be presumptive evidence that the defendant knew that the person was a minor.

The provisions of paragraph (a) of this section shall not apply where the defendant makes a showing that, at the time of his arrest:

(1) He was a salaried employee of the business, and

(2) He had no interest in the business beyond his salary or wage, and

(3) He was under the direct personal supervision of an owner, manager or operator of the business, who is a resident of this state and who is not exempt from prosecution under the provisions of this chapter.

313.26. The following shall be defenses to the charges enumerated in the foregoing sections of this chapter, the burden of proof of which, by a preponderance of the evidence, shall be upon the defendant:

That from the minor's appearance the defendant had no reason to suspect that the minor was under 18 years of age, or that if he had reason to or did so suspect, he made reasonable efforts to determine the minor's age. Reasonable effort shall not consist of merely asking the minor his age.

(b) That sexual titillation is not a primary purpose of those aspects of any item that otherwise would appear to be actionable under this chapter and that defendant was a bona fide school, museum, art gallery or public library, or was acting in his capacity as an employee of such organization or of a retail outlet affiliated with and serving the educational purposes of such organization.

(c) That sexual titillation is not a primary purpose of those aspects of any item that otherwise would appear to be actionable under this chapter and that such aspects form merely a minor and incidental part of an otherwise non-offending whole, except that under no circumstances shall sadomasochistic abuse, defecation, urination or sexual conduct beyond an apparent touching of the unexposed buttocks or female breast be permitted in any live public show, nor shall any sadomasochistic abuse, sexual conduct that explicitly reveals genital areas, defecation or urination be permitted in any public library, nor shall any book, magazine or other publication contain any photograph of humans that shows sadomasochistic abuse, sexual conduct that explicitly reveals genital areas, defecation or urination.

313.27. Any person shall be guilty of a misdemeanor who knowingly shows, presents or exhibits outdoors, or who knowingly aids or assists in the showing, presentation or exhibition outdoors, of any motion picture, slide presentation or live public show which is visible from any public street or highway or from any other place where such showing, presentation or exhibition may be visible to a minor, and which depicts or reveals nudity, sexual conduct, sexual excitement, defecation, urination or sadomasochistic abuse, or the participants in or onlookers at acts in progress of sadomasochistic abuse or sexual conduct, or which includes obscenities or explicit verbal descriptions or narrative accounts of sexual conduct, which may be audible to a minor.

The provisions of Section 313.25 shall apply to this section.

313.28. Every person who, with knowledge that a person is a minor under 18 years of age, or who, while in possession of such facts that he should reasonably know that such person is a minor under 18 years of age, hires, employs, or uses such minor to do or assist in doing any of the acts described in Chapter 7.7 or 7.8 of this title is guilty of a misdemeanor.

313.29. Every person, who, knowingly, as a condition to a sale, allocation, consignment, or delivery for resale of any paper, magazine, book, periodical, publication or other merchandise, requires that the purchaser or consignee receive any matter reasonably believed by the purchaser or consignee to be materials proscribed by Chapter 7.7 or 7.8 of this title, or who denies or threatens to deny a franchise, revokes or threatens to revoke, or imposes any penalty, financial or otherwise, by reason of the failure of any person to accept such matter, or by reason of the return of such matter, is guilty of a misdemeanor.

313.30. (a) Every person who is authorized to arrest any person for a violation of Chapter 7.7 or 7.8 of this title is equally authorized to seize any materials proscribed by such chapters found in the possession or under the control of the person so arrested and to deliver them to the court before whom the person so arrested is required to be taken.

(b) If the seizure be controverted by any interested person, the court to whom any materials proscribed by such chapters is delivered pursuant to the foregoing paragraph or to the return of a search warrant must within one day after service upon the prosecuting attorney of a motion to suppress the evidence or restore the matter, proceed to take testimony in relation thereto. A decision as to whether there is probable cause to believe the seized material to be material proscribed by Chapter 7.7 or 7.8 of this title shall be rendered by the court within two days of the conclusion of the restoration proceedings.

If the motion to suppress the evidence is granted on the grounds of an unlawful seizure, the property shall be restored, unless it is subject to confiscation as contraband, as provided for in Section 313.31 in which case it shall not be returned.

313.31. (a) Materials proscribed by Chapter 7.7 or 7.8 of this title and advertisements for matter represented to be such materials are contraband and shall be destroyed.

(b) Upon the conviction of the accused or rendition of a court order declaring such matter to be contraband and subject to confiscation, the court shall, when such judgment becomes final, order, upon five days' notice to the defendant, any materials or advertisement, in respect to which the accused stands convicted, and which remains in the possession or under the control of the district attorney or any law enforcement agency, to be destroyed, and the court shall cause to be destroyed any such material in its possession or under its control, retaining only such copies as are necessary for law enforcement purposes, provided that destruction of such matter shall be stayed until after the time provided for filing a notice of appeal has expired, and provided further that where an appeal is timely filed, such destruction shall be stayed pending the decision on appeal.

313.32. Chapters 7.5, 7.6, 7.7, 7.8 and 7.9 of this title do not occupy the field in the regulation of the materials and conduct proscribed by such chapters, and counties, cities, and other political subdivisions of this state are hereby specifically given the right to further regulate such materials and conduct.

313.33. (a) Every person who violates any provision of Chapter 7.7 or Chapter 7.8 of this title, is punishable by fine of not more than two thousand ($2,000.) or by imprisonment in the county jail for not more than six months, or both such fine and such imprisonment.

(b) If such person previously has been convicted of any violation of Section 313.7, 313.8, 313.9 or 313.10 of Chapter 7.7, or of any violation of Section 313.21, 313.22, 313.23 or 313.28 of Chapter 7.8, or of any violation of Section 311.2, 311.4, 311.6 or 311.7 of Chapter 7.5, or of any violation of Section 313.1 of Chapter 7.6, all chapters of this title, he is punishable by a fine of not more than ten thousand dollars ($10,000.) or by imprisonment in the county jail for not more than one year, or by both such fine and such imprisonment.

(c) If such person previously has been convicted five or more times under any of the sections enumerated in paragraph (b) of this section, he is punishable by imprisonment in the state prison for not more than five years.

313.34. If any provision of chapter 7.7 or 7.8 of this title or the application of such chapter to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter a[illegible]clared to be severable.

Section 6. Chapter 7.9 (commencing with Section 313.50) is added to Title 9 of Part 1 of the Penal Code, to read:

CHAPTER 7.9. INJUNCTIVE RELIEF

313.50. The superior courts of the State of California have jurisdiction to enjoin the sale or distribution of any book, magazine, or any other publication or article, or the public showing of any motion picture film, slide, exhibit, or performance which is prohibited under Chapters 7.5, 7.6, 7.7 or 7.8 of this title.

313.51. The district attorney of any county in this state in which a person, firm, or corporation sells or distributes, or is about to sell or distribute, or is about to acquire possession with intent to sell or distribute any book, magazine, pamphlet, newspaper, story paper, writing paper, picture, card, drawing, photograph, or other publication or matter which is prohibited by the above enumerated chapters may maintain an action for an injunction against such person, firm, or corporation in the superior court to prevent the sale or further sale or the distribution or further distribution of any such prohibited publications or articles.

313.52. The district attorney of [illegible]ny county in this state in which a person [illegible], or corporation shows publicly, or is ab[illegible]o show publicly, or is about to acquire possession with intent to show publicly any motion picture film, slide, exhibit, or performance which is prohibited under the above enumerated chapters may maintain an action for an injunction against such person, firm, or corporation in the superior court to prevent the public showing or further public showing of such prohibited matter or activity.

313.53. The person, firm, or corporation sought to be enjoined is entitled to a trial of the issues within one day after joinder of issue and a decision shall be rendered by the court within two days after the conclusion of the trial.

313.54. In the event that an order or judgment be entered in favor of the district attorney and against the person, firm, or corporation sought to be enjoined, such final order or judgment shall contain a provision directing the person, firm, or corporation to surrender to such peace officer as the court may direct or to the sheriff of the county in which the action was brought any of the matter described in Section 313.51 or 313.52, and such sheriff or officer shall be directed to seize and destroy the same, provided that destruction of such matter shall be stayed until after the time provided for filing a no[illegible]tice of appeal has expired, and provide[illegible]ther that where an appeal is timely filed, [illegible] destruction shall be stayed pending the decision on appeal.

313.55. In any action brought pursuant to the provisions of this chapter, the district ney is not required to file any bond be- he issuance of an injunction order provided for by this chapter, is not liable for costs, and is not liable for damages sustained by reason of the injunction order in cases where judgment is rendered in favor of the person, firm, or corporation sought to be enjoined.

313.56. If any provision of this chapter or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are declared to be severable.

MARIJUANA. Initiative. Removes state penalties for personal use. Proposes a statute which would provide that no person eighteen years or older shall be punished criminally or denied any right or privilege because of his planting, cultivating, harvesting, drying, processing, otherwise preparing, transporting, possessing or using marijuana. Does not repeal existing, or limit future, legislation prohibiting persons under the influence of marijuana from engaging in conduct that endangers others. Financial impact: None.

19

YES	
NO	

(This Initiative Measure proposes to add a section to the Health and Safety Code. It does not amend any existing law. Therefore, its provisions are printed in **BOLDFACE TYPE** to indicate that they are **NEW.**)

PROPOSED SECTION 11530.2, HEALTH AND SAFETY CODE.

SECTION 11530.2

(1) No person in the State of California years of age or older shall be punished inally, or be denied any right or privilege, by reason of such person's planting, cultivating, harvesting, drying, processing, otherwise preparing, transporting, or possessing marijuana for personal use, or by reason of that use.

(2) This provision shall in no way be construed to repeal existing legislation, or limit the enactment of future legislation, prohibiting persons under the influence of marijuana from engaging in conduct that endangers others.

COASTAL ZONE CONSERVATION ACT. Initiative. Creates State Coastal Zone Conservation Commission and six regional commissions. Sets criteria for and requires submission of plan to Legislature for preservation, protection, restoration and enhancement of environment and ecology of coastal zone, as defined. Establishes permit area within coastal zone as the area between the seaward limits of state jurisdiction and 1000 yards landward from the mean high tide line, subject to specified exceptions. Prohibits any development within permit area without permit by state or regional commission. Prescribes standards for issuance or denial of permits. Act terminates after 1976. This measure appropriates five million dollars ($5,000,000) for the period 1973 to 1976. Financial impact: Cost to state of $1,250,000 per year plus undeterminable local government administrative costs.

20

YES	
NO	

(This Initiative Measure proposes to add and repeal a division of the Public Resources Code and add and repeal a section of the Business and Professions Code. It does not amend any existing law; therefore, its provisions are printed in **BOLDFACE TYPE** to indicate that they are **NEW.**)

PROPOSED LAW

Section 1. Division 18 (commencing with Section 27000) is added to the Public Resources Code, to read:

DIVISION 18. CALIFORNIA COASTAL NE CONSERVATION COMMISSION

CHAPTER 1. GENERAL PROVISIONS AND FINDINGS AND DECLARATIONS OF POLICY

27000. This division may be cited as the California Coastal Zone Conservation Act of 1972.

27001. The people of the State of California hereby find and declare that the California coastal zone is a distinct and valuable natural resource belonging to all the people and existing as a delicately balanced ecosystem; that the permanent protection of the remaining natural and scenic resources of the coastal zone is a paramount concern to present and future residents of the state and nation; that in order to promote the public safety, health, and welfare, and to protect public and private property, wildlife, marine fisheries, and other ocean resources, and the natural environment, it is necessary to pre-

serve the ecological balance of the coastal zone and prevent its further deterioration and destruction; that it is the policy of the state to preserve, protect, and, where possible, to restore the resources of the coastal zone for the enjoyment of the current and succeeding generations; and that to protect the coastal zone it is necessary:

(a) To study the coastal zone to determine the ecological planning principles and assumptions needed to ensure conservation of coastal zone resources.

(b) To prepare, based upon such study and in full consultation with all affected governmental agencies, private interests, and the general public, a comprehensive, coordinated, enforceable plan for the orderly, long-range conservation and management of the natural resources of the coastal zone, to be known as the California Coastal Zone Conservation Plan.

(c) To ensure that any development which occurs in the permit area during the study and planning period will be consistent with the objectives of this division.

(d) To create the California Coastal Zone Conservation Commission, and six regional coastal zone conservation commissions, to implement the provisions of this division.

CHAPTER 2. DEFINITIONS

27100. "Coastal zone" means that land and water area of the State of California from the border of the State of Oregon to the border of the Republic of Mexico, extending seaward to the outer limit of the state jurisdiction, including all islands within the jurisdiction of the state, and extending inland to the highest elevation of the nearest coastal mountain range, except that in Los Angeles, Orange, and San Diego Counties, the inland boundary of the coastal zone shall be the highest elevation of the nearest coastal mountain range or five miles from the mean high tide line, whichever is the shorter distance.

27101. "Coastal zone plan" means the California Coastal Zone Conservation Plan.

27102. (a) "Commission" means the California coastal zone conservation commission.

(b) "Regional commission" means any regional coastal zone conservation commission.

27103. "Development" means, on land, in or under water, the placement or erection of any solid material or structure; discharge or disposal of any dredged material or of any gaseous, liquid, solid, or thermal waste; grading, removing, dredging, mining, or extraction of any materials; change in the density or intensity of use of land, including, but not limited to, subdivision of land pursuant to the Subdivision Map Act and any other division of land, including lot splits; change in the intensity of use of water, ecology related thereto, or of access thereto; construction, reconstruction, demolition, or alteration of the size of any structure, including any facility of any private, public, or municipal utility, and the removal or logging of major vegetation. As used in this section, "structure" includes, but is not limited to, any building, road, pipe, flume, conduit, sign, aqueduct, telephone line, and electrical power transmission and distribution line.

27104. "Permit area" means that portion of the coastal zone lying between the seaward limit of the jurisdiction of the state and 1,000 yards landward from the mean high tide line of the sea subject to the following provisions:

(a) The area of jurisdiction of the San Francisco Bay Conservation and Development Commission is excluded.

(b) If any portion of any body of water which is not subject to tidal action lies within the permit area, the body of water together with a strip of land 1,000-feet wide surrounding it shall be included.

(c) Any urban land area which is (1) a residential area zoned, stabilized and developed to a density of four or more dwelling units per acre on or before January 1, 1972; or (2) a commercial or industrial area zoned, developed, and stabilized for such use on or before January 1, 1972, may, after public hearing, be excluded by the regional commission at the request of a city or county within which such area is located. An urban land area is "stabilized" if 80 percent of the lots are built upon to the maximum density or intensity of use permitted by the applicable zoning regulations existing on January 1, 1972.

Tidal and submerged lands, beaches, and lots immediately adjacent to the inland extent of any beach or of the mean high tide line where there is no beach shall not be excluded.

Orders granting such exclusion shall be subject to conditions which shall assure that no significant change in density, height, or nature of uses occurs.

An order granting exclusion may be revoked at any time by the regional commission, after public hearing.

(d) Each regional commission shall adopt a map delineating the precise boundaries of the permit area within 60 days after its first meeting and file a copy of such map in the office of the county clerk of each county within its region.

27105. "Person" includes any individual, organization, partnership, and corporation, including any utility and any agency of federal, state, and local government.

27106. "Sea" means the Pacific Ocean and all the harbors, bays, channels, estuaries, salt marshes, sloughs, and other areas subject to tidal action through a connection with the Pacific Ocean, excluding nonestuarine rivers and creeks.

CHAPTER 3. CREATION, MEMBERSHIP, AND POWERS OF COMMISSION AND REGIONAL COMMISSIONS

Article 1. Creation and Membership of Commissions and Regional Commissions

27200. The California Coastal Zone Conservation Commission is hereby created and consist of the following members:

(a) Six representatives from the regional commissions, selected by each regional commission from among its members.

(b) Six representatives of the public who shall not be members of a regional commission.

27201. The following six regional commissions are hereby created:

(a) The North Coast Regional Commission for Del Norte, Humboldt, and Mendocino Counties shall consist of the following members:

(1) One supervisor and one city councilman from each county.

(2) Six representatives of the public.

(b) The North Central Coast Regional Commission for Sonoma, Marin, and San Francisco Counties shall consist of the following members:

(1) One supervisor and one city councilman from Sonoma County and Marin County.

(2) Two supervisors of the City and County of San Francisco.

(3) One delegate to the Association of Bay Area Governments.

(4) Seven representatives of the public.

(c) The Central Coast Regional Commission for San Mateo, Santa Cruz, and Monte- Counties shall consist of the following bers:

(1) One supervisor and one city councilman from each county.

(2) One delegate to the Association of Bay Area Governments.

(3) One delegate to the Association of Monterey Bay Area Governments.

(4) Eight representatives of the public.

(d) The South Central Coast Regional Commission for San Luis Obispo, Santa Barbara, and Ventura Counties shall consist of the following members:

(1) One supervisor and one city councilman from each county.

(2) Six representatives of the public.

(e) The South Coast Regional Commission for Los Angeles and Orange Counties shall consist of the following members:

(1) One supervisor from each county.

(2) One city councilman from the City of Los Angeles selected by the president of such city council.

(3) One city councilman from Los Angeles County from a city other than Los Angeles.

(4) One city councilman from Orange County.

(5) One delegate to the Southern California Association of Governments.

(6) Six representatives of the public.

(f) The San Diego Coast Regional Comsion for San Diego County, shall consist the following members:

(1) Two supervisors from San Diego County and two city councilmen from San Diego County, at least one of whom shall be from a city which lies within the permit area.

(2) One city councilman from the City of San Diego, selected by the city council of such city.

(3) One member of the San Diego Comprehensive Planning Organization.

(4) Six representatives of the public.

27202. All members of the regional commissions and public members of the commission shall be selected or appointed as follows:

(a) All supervisors, by the board of supervisors on which they sit;

(b) All city councilmen except under subsections (e) (2) and (f) (2), by the city selection committee of their respective counties;

(c) All delegates of regional agencies, by their respective agency;

(d) All public representatives, equally by the Governor, the Senate Rules Committee and the Speaker of the Assembly, provided that the extra member under (b) (4) and the extra members under (c) (4) shall be appointed by the Governor, the Senate Rules Committee and the Speaker of the Assembly respectively.

Article 2. Organization

27220. Each public member of the commission or of a regional commission shall be a person who, as a result of his training, experience, and attainments, is exceptionally well qualified to analyze and interpret environmental trends and information, to appraise resource uses in light of the policies set forth in this division, to be responsive to the scientific, social, esthetic, recreational, and cultural needs of the state. Expertise in conservation, recreation, ecological and physical sciences, planning, and education shall be represented on the commission and regional commissions.

27221. Each member of the commission and each regional commission shall be appointed or selected not later than December 31, 1972.

Each appointee of the Governor shall be subject to confirmation by the Senate.

27222. In the case of persons qualified for membership because they hold a specified office, such membership ceases when their term of office ceases. Vacancies which occur shall be filled in the same manner in which the original member was selected or appointed.

27223. Members shall serve without compensation, but shall be reimbursed for the actual and necessary expenses incurred in the performance of their duties to the extent that reimbursement is not otherwise provided by another public agency. Members who are not employees of other public agencies shall receive fifty dollars ($50) for each full day of attending meetings of the commission or of any regional commission.

27224. The commission and regional commissions shall meet no less than once a month at a place convenient to the public. Unless otherwise provided in this division, no decision on permit applications or on the adoption of the coastal zone plan or any part thereof shall be made without a prior public hearing. All meetings of the commission and each regional commission shall be open to the public. A majority affirmative vote of the total authorized membership shall be necessary to approve any action required or permitted by this division, unless otherwise provided.

27225. The first meeting of the commission shall be no later than February 15, 1973. The first meeting of the regional commissions shall be no later than February 1, 1973.

27226. The headquarters of the commission shall be within the coastal zone.

Article 2.5. Conflicts of Interest

27230. Except as hereinafter provided none of the following persons shall appear or act, in any capacity whatsoever except as a representative of the state, or political subdivision thereof, in connection with any proceeding, hearing, application, request for ruling or other official determination, judicial or otherwise, in which the coastal zone plan, or the commission or any regional commission is involved in an official capacity:

(a) Any member or employee of the commission or regional commission;

(b) Any former member or employee of the commission or regional commission during the year following termination of such membership or employment;

(c) Any partner, employer, an employee of a member or employee of the commission or any regional commission, when the matter in issue is one which is under the official responsibility of such member or employee, or in connection with which such member or employee has acted or is scheduled to act, in any official capacity whatsoever.

27231. No member or employee of the commission or any regional commission shall participate, in any official capacity whatsoever, in any proceeding, hearing, application, request for ruling or other official determination, judicial or otherwise, in which any of the following has a financial interest: the member or employee himself; his spouse; his child; his partner; any organization in which he is then serving or has, within two years prior to his selection or appointment to or employment by such commission or regional commission, served, in the capacity of officer, director, trustee, partner, employer or employee; any organization within which he is negotiating for or has any arrangement or understanding concerning prospective partnership or employment.

27232. In any case within the coverage of Section 27230, the prohibitions therein contained shall not apply if the person concerned advises the commission in advance of the nature and circumstances thereof, including full public disclosure of the facts which may potentially give rise to a v tion of this article, and obtains from commission a written determination that the contemplated action will not adversely affect the integrity of the commission or any regional commission. Any such determination shall require the affirmative vote of two-thirds of the members of the commission.

27233. Nothing in this article shall preclude any member of the commission or any regional commission, who is also a county supervisor or city councilman, from voting or otherwise acting upon a matter he has previously acted upon in such designated capacity.

27234. Any person who violates any provision of this article shall, upon conviction, and for each such offense, be subject to a fine of not more than ten thousand dollars ($10,000) or imprisonment in the state prison for not more than two years, or both.

Article 3. POWERS AND DUTIES

27240. The comm..ssion and each regional commission, may:

(a) Accept grants contributions, and appropriations;

(b) Contract for any professional services if such work or services cannot satisfactorily be performed by its employees;

(c) Be sued and sue to obtain any ren to restrain violations of this division. t request of the commission or any regional commission, the State Attorney General shall provide necessary legal representation.

(d) Adopt any regulations or take any action it deems reasonable and necessary to carry out the provisions of this division, but no regulations shall be adopted without a prior public hearing.

27241. The commission and regional commissions may request and utilize the advice and services of all federal, state, and local agencies. Upon request of a regional commission any federally recognized regional planning agency within its region shall provide staff assistance insofar as its resources permit.

27242. All elements of the California Comprehensive Ocean Area Plan, together with all staff and funds appropriated or allocated to it, shall be delivered by the Governor and shall be attached and allocated to the commission at its first meeting.

27243. The commission and each regional commission shall each elect a chairman and appoint an executive director, who shall be exempt from civil service.

CHAPTER 4. CALIFORNIA COASTAL ZONE CONSERVATION PLAN

Article 1. Generally

27300. The commission shall prep. adopt, and submit to the Legislature for implementation the California Coastal Zone Conservation Plan.

27301. The coastal zone plan shall be based upon detailed studies of all the fac- hat significantly affect the coastal zone.

.02. The coastal zone plan shall be consistent with all of the following objectives:

(a) The maintenance, restoration, and enhancement of the overall quality of the coastal zone environment, including, but not limited to, its amenities and aesthetic values.

(b) The continued existence of optimum populations of all species of living organisms.

(c) The orderly, balanced utilization and preservation, consistent with sound conservation principles, of all living and nonliving coastal zone resources.

(d) Avoidance of irreversible and irretrievable commitments of coastal zone resources.

27303. The coastal zone plan shall consist of such maps, text and statements of policies and objectives as the commission determines are necessary.

27304. The plan shall contain at least the following specific components:

(a) A precise, comprehensive definition of the public interest in the coastal zone.

(b) Ecological planning principles and assumptions to be used in determining the suitability and extent of allowable development.

(c) A component which includes the following elements:

) A land-use element.

) A transportation element.

(3) A conservation element for the preservation and management of the scenic and other natural resources of the coastal zone.

(4) A public access element for maximum visual and physical use and enjoyment of the coastal zone by the public.

(5) A recreation element.

(6) A public services and facilities element for the general location, scale, and provision in the least environmentally destructive manner of public services and facilities in the coastal zone. This element shall include a power plant siting study.

(7) An ocean mineral and living resources element.

(8) A population element for the establishment of maximum desirable population densities.

(9) An educational or scientific use element.

(d) Reservations of land or water in the coastal zone for certain uses, or the prohibition of certain uses in specific areas.

(e) Recommendations for the governmental policies and powers required to implement the coastal zone plan including the organization and authority of the governmental agency or agencies which should assume permanent responsibility for its implementation.

Article 2. Planning Procedure

27320. (a) The commission shall, within six months after its first meeting, publish objectives, guidelines, and criteria for the collection of data, the conduct of studies, and the preparation of local and regional recommendations for the coastal zone plan.

(b) Each regional commission shall, in cooperation with appropriate local agencies, prepare its definitive conclusions and recommendations, including recommendations for areas that should be reserved for specific uses or within which specific uses should be prohibited, which it shall, after public hearing in each county within its region, adopt and submit to the commission no later than April 1, 1975.

(c) On or before December 1, 1975, the commission shall adopt the coastal zone plan and submit it to the Legislature for its adoption and implementation.

CHAPTER 5. INTERIM PERMIT CONTROL

Article 1. General Provisions

27400. On or after February 1, 1973, any person wishing to perform any development within the permit area shall obtain a permit authorizing such development from the regional commission and, if required by law, from any city, county, state, regional or local agency.

Except as provided in Sections 27401 and 27422, no permit shall be issued without the affirmative vote of a majority of the total authorized membership of the regional commission, or of the commission on appeal.

27401. No permit shall be issued for any of the following without the affirmative vote of two-thirds of the total authorized membership of the regional commission, or of the commission on appeal:

(a) Dredging, filling, or otherwise altering any bay, estuary, salt marsh, river mouth, slough, or lagoon.

(b) Any development which would reduce the size of any beach or other area usable for public recreation.

(c) Any development which would reduce or impose restrictions upon public access to tidal and submerged lands, beaches and the mean high tideline where there is no beach.

(d) Any development which would substantially interfere with or detract from the line of sight toward the sea from the state highway nearest the coast.

(e) Any development which would adversely affect water quality, existing areas of open water free of visible structures, existing and potential commercial and sport fisheries, or agricultural uses of land which are existing on the effective date of this division.

27402. No permit shall be issued unless the regional commission has first found, both of the following:

(a) That the development will not have any substantial adverse environmental or ecological effect.

(b) That the development is consistent with, the findings and declarations set forth

in Sections 27001 and with the objectives set forth in Section 27302.

The applicant shall have the burden of proof on all issues.

27403. All permits shall be subject to reasonable terms and conditions in order to ensure:

(a) Access to publicly owned or used beaches, recreation areas, and natural reserves is increased to the maximum extent possible by appropriate dedication.

(b) Adequate and properly located public recreation areas and wildlife preserves are reserved.

(c) Provisions are made for solid and liquid waste treatment, disposition, and management which will minimize adverse effects upon coastal zone resources.

(d) Alterations to existing land forms and vegetation, and construction of structures shall cause minimum adverse effect to scenic resources and minimum danger of floods, landslides, erosion, siltation, or failure in the event of earthquake.

27404. If, prior to the effective date of this division, any city or county has issued a building permit, no person who has obtained a vested right thereunder shall be required to secure a permit from the regional commission; providing that no substantial changes may be made in any such development, except in accordance with the provisions of this division. Any such person shall be deemed to have such vested rights if, prior to April 1, 1972, he has in good faith and in reliance upon the building permit diligently commenced construction and performed substantial work on the development and incurred substantial liabilities for work and materials necessary therefor. Expenses incurred in obtaining the enactment of an ordinance in relation to the particular development or the issuance of a permit shall not be deemed liabilities for work or material.

27405. Notwithstanding any provision in this chapter to the contrary, no permit shall be required for the following types of development:

(a) Repairs and improvements not in excess of seven thousand five hundred dollars ($7,500) to existing single-family residences; provided, that the commission shall specify by regulation those classes of development which involve a risk of adverse environmental effect and may require that a permit be obtained.

(b) Maintenance dredging of existing navigation channels or moving dredged material from such channels to a disposal area outside the permit area, pursuant to a permit from the United States Army Corps of Engineers.

Article 2. Permit Procedure

27420. (a) The commission shall prescribe the procedures for permit applications and their appeal and may require a reasonable filing fee and the reimbursement of expenses.

(b) The regional commission shall written public notice of the nature o proposed development and of the time and place of the public hearing. Such hearing shall be set no less than 21 nor more than 90 days after the date on which the application is filed.

(c) The regional commission shall act upon an application for permit within 60 days after the conclusion of the hearing and such action shall become final after the tenth working day unless an appeal is filed within that time.

27421. Each unit of local government within the permit area shall send a duplicate of each application for a development within the permit area to the regional commission at the time such application for a local permit is filed, and shall advise the regional commission of the granting of any such permit.

27422. The commission shall provide, by regulation, for the issuance of permits by the executive directors without compliance with the procedure specified in this chapter in cases of emergency or for repairs or improvements to existing structures not in excess of twenty-five thousand dollars ($25,000) and other developments not in excess of ten thousand dollars ($10,000). Nonemergency permits shall not be effective until after reasonable public notice and adeq time for the review of such issuance been provided. If any two members of the regional commission so request at the first meeting following the issuance of such permit, such issuance shall not be effective and instead the application shall be set for a public hearing pursuant to the provisions of Section 27420.

27423. (a) An applicant, or any person aggrieved by approval of a permit by the regional commission may appeal to the commission.

(b) The commission may affirm, reverse, or modify the decision of the regional commission. If the commission fails to act within 60 days after notice of appeal has been filed, the regional commission's decision shall become final.

(c) The commission may decline to hear appeals that it determines raise no substantial issues. Appeals it hears shall be scheduled for a de novo public hearing and shall be decided in the same manner and by the same vote as provided for decisions by the regional commissions.

27424. Any person, including an applicant for a permit, aggrieved by the decision or action of the commission or regional commission shall have a right to judicial review of such decision or action by filing a petition for a writ of mandate, pursuant to Sect 1084 of the Code of Civil Procedure, wit 60 days after such decision or action has become final.

27425. Any person may maintain an action for declaratory and equitable relief to restrain violation of this division. No bond be required for an action under this on.

27426. Any person may maintain an action for the recovery of civil penalties provided in Sections 27500 and 27501.

27427. The provisions of this article shall be in addition to any other remedies available at law.

27428. Any person who prevails in a civil action brought to enjoin a violation of this division or to recover civil penalties shall be awarded his costs, including reasonable attorneys fees.

CHAPTER 6. PENALTIES

27500. Any person who violates any provision of this division shall be subject to a civil fine not to exceed ten thousand dollars ($10,000).

27501. In addition to any other penalties, any person who performs any development in violation of this division shall be subject to a civil fine not to exceed five hundred dollars ($500) per day for each day in which such violation persists.

CHAPTER 7. REPORTS

27600. (a) The commission shall file annual progress reports with the Governor and the Legislature not later than the fifth calendar day of the 1974 and 1975 Regular Ses- of the Legislature, and shall file its final t containing the coastal zone plan with the Governor and the Legislature not later than the fifth calendar day of the 1976 Regular Session of the Legislature.

CHAPTER 8. TERMINATION

27650. This division shall remain in effect until the 91st day after the final adjournment of the 1976 Regular Session of the Legislature, and as of that date is repealed.

Sec. 2. Section 11528.2 is added to the Business and Professions Code, to read:

11528.2. The clerk of the governing body or the advisory agency of each city or county or city and county having jurisdiction over any part of the coastal zone as defined in Section 27100 of the Public Resources Code, shall transmit to the office of the California Coastal Zone Conservation Commission within three days after the receipt thereof, one copy of each tentative map of any subdivision located, wholly or partly, within the coastal zone and such Commission may, within 15 days thereafter, make recommendations to the appropriate local agency regarding the effect of the proposed subdivision upon the California Coastal Zone Conservation Plan. This section does not exempt any such subdivision from the permit requirements of Chapter 5 (commencing with Section 27400) of Division 18 of the Public Resources Code.

This section shall remain in effect only until the 91st day after the final adjournment of the 1976 Regular Session of the Legislature, and as of that date is repealed.

Sec. 3. If any provision of this act or the application thereof to any person or circumstances is held invalid, such invalidity 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.

Sec. 4. There is hereby appropriated from the Bagley Conservation Fund to the California Coastal Zone Conservation Commission the sum of five million dollars ($5,000,000) to the extent that any moneys are available in such fund and if all or any portions thereof are not available then from the General Fund for expenditure to support the operations of the commission and regional coastal zone conservation commissions during the fiscal years of 1973 to 1976, inclusive, pursuant to the provisions of Division 18 (commencing with Section 27000) of the Public Resources Code.

Sec. 5. The Legislature may, by two-thirds of the membership concurring, amend this act in order to better achieve the objectives set forth in Sections 27001 and 27302 of the Public Resources Code.

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21 **ASSIGNMENT OF STUDENTS TO SCHOOLS.** Initiative. Adds section to Education Code providing: "No public school student shall, because of his race, creed, or color, be assigned to or be required to attend a particular school." Repeals section establishing policy that racial and ethnic imbalance in pupil enrollment in public schools shall be prevented and eliminated. Repeals section which (1) establishes factors for consideration in preventing or eliminating racial or ethnic imbalances in public schools; (2) requires school districts to report numbers and percentages of racial and ethnic groups in each school; and (3) requires districts to develop plans to remedy imbalances. Financial impact: None.

YES	
NO	

(This Initiative Measure proposes to repeal and add sections of the Education Code. refore, **EXISTING PROVISIONS** pro- ed to be **REPEALED** are printed in ~~STRIKEOUT TYPE~~ and **NEW PROVISIONS** proposed to be **ADDED** are printed in **BOLDFACE TYPE**.)

PROPOSED LAW

SECTION 1. Section 1009.6 is added to the Education Code, to read:

1009.6. No public school student shall, because of his race, creed, or color, be assigned to or be required to attend a particular school.

SECTION 2. Section 5002 of the Education Code, as added by Chapter 1765 of the Statutes of 1971, is repealed.

~~5002. It is the declared policy of the Legislature that persons or agencies responsible for the establishment of school attendance centers or the assignment of pupils thereto shall prevent and eliminate racial and ethnic imbalance in pupil enrollment. The prevention and elimination of such imbalance shall be given high priority in all decisions relating to school sites, school attendance areas, and school attendance practices.~~

SECTION 3. Section 5003 of the Education Code, as added by Chapter 1765 of the Statutes of 1971, is repealed.

~~5003. (a) In carrying out the policy of Section 5002, consideration shall be given to the following factors:~~

~~(1) A comparison of the numbers and percentages of pupils of each racial and ethnic group in the district with their numbers and percentages in each school and each grade.~~

~~(2) A comparison of the numbers and percentages of pupils of each racial and ethnic group in certain schools with those in other schools in adjacent areas of the district.~~

~~(3) Trends and rates of population change among racial and ethnic groups within the total district, in each school, and in each grade.~~

~~(4) The effects on the racial and ethnic composition of each school and each grade of alternate plans for selecting or enlarging school sites, or for establishing or altering school attendance areas and school attendance practices.~~

~~(b) The governing board of each school district shall periodically, at such time and in such form as the Department of Education shall prescribe, submit statistics sufficient to enable a determination to be made of the numbers and percentages of the various racial and ethnic groups in every public school under the jurisdiction of each such governing board.~~

~~(c) For purposes of Section 5002 and this section, a racial or ethnic imbalance is indicated in a school if the percentage of pupils of one or more racial or ethnic groups differs significantly from the districtwide percentage.~~

~~(d) A district shall study and consider plans which would result in alternative pupil distributions which would remedy such imbalance upon a finding by the Department of Education that the percentage of pupils of one or more racial or ethnic groups in a school differs significantly from the districtwide percentage. A district undertaking such a study may consider among feasibility factors the following:~~

~~(1) Traditional factors used in site selection, boundary determination, and school organization by grade level.~~

~~(2) The factors mentioned in subdivision (a) of this section.~~

~~(3) The high priority established in Section 5002.~~

~~(4) The effect of such alternative plans on the educational programs in that district.~~

~~In considering such alternative plans the district shall analyze the total educational impact of such plans on the pupils of the district. Reports of such a district study and resulting plans of action, with schedules for implementation, shall be submitted to the Department of Education, for its acceptance or rejection, at such time and in such form as the department shall prescribe. The department shall determine the adequacy of alternative district plans and implementation schedules and shall report its findings as to the adequacy of alternative district plans and implementation schedules to the State Board of Education. A summary report of the f[illegible] ings of the department pursuant to this tion shall be submitted to the Legislature each year.~~

~~(e) The State Board of Education shall adopt rules and regulations to carry out the intent of Section 5002 and this section.~~

Section 4. The provisions of Article 3 (commencing with Section 14020) of Chapter 1 of Division 13 of Part 1 of Title 5 of the California Administrative Code, as printed on January 1, 1972, relating to attendance areas and practices, shall have no force and effect.

Section 5. If any provision of this act or the application thereof to any person or circumstances is held invalid, such invalidity 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.

22	**AGRICULTURAL LABOR RELATIONS. Initiative.** Sets forth permissible and prohibited labor relation activities of agricultural employers, employees, and labor organizations. Makes specified types of strikes, picketing, and boycotts unlawful. Defines unfair labor practices. Creates Agricultural Labor Relations Board with power to certify organizations as bargaining representatives, conduct elections therefor, prevent unfair labor practices, and investigate and hold hearings relating to enforcement of Act. Provides Board's orders are reviewable and enforceable by courts. Provides interference with Board's performance of duties or commission of defined unlawful acts is punishable by fine and/or imprisonment. Financial impact: Cost increase to state of $600,000 per year.	**YES**	
		NO	

(This Initiative Measure proposes to add a Part 3.5 to the Labor Code. It does not amend any existing law. Therefore, its provisions are printed in **BOLDFACE TYPE** to indicate that they are **NEW**.)

PROPOSED LAW

PART 3.5. AGRICULTURAL LABOR RELATIONS

Chapter 1. General Provisions

1140. This part may be referred to and known as the Agricultural Labor Relations Act of 1972.

1140.2. It is hereby declared to be the policy of the State of California that the uninterrupted production, packing, processing, transporting, and marketing of agricultural products is vital to the public interest.

It is also declared to be the policy of this state that employees shall be free to organize, take concerted action, and through representatives of their own choosing to enter into collective bargaining contracts establishing their wages and terms and conditions of employment.

1140.4. As used in this part:

(a) The term "person" includes one or more individuals, labor organizations, partnerships, associations, corporations, legal representatives, trustees, trustees in bankruptcy, or receivers.

(b) The term "agriculture" shall include all activities performed on a farm in the employ of any person, as more particularly described in Section 626 of the California Unemployment Insurance Code; and the term shall also include all activities performed in the employ of the owner or tenant of a farm, as more particularly described in subsections (a) and (b) of Section 627 of the California Unemployment Insurance Code; and the term shall also include the recruiting, housing and feeding of persons employed by or to be employed by an agricultural employer. The term shall not include, however, any of those activities more specifically described in subsection (c) of Section 627 of the California Unemployment Insurance Code.

(c) The term "agricultural employer" means any employer engaged in agriculture who employed six or more employees during a workdays in any calendar month during the preceding six-month period. Such term shall also include any person who provides labor and services on one or more farms as an independent contractor if such person, during all workdays in any calendar month during the preceding six-month period, employed six or more employees in such work. In calculating the number of agricultural employees employed by an agricultural employer or provided by an independent contractor, one hour or more of employment in any one day shall be considered a day of work.

Any employer engaged in agriculture with less than six agricultural employees may voluntarily elect to be subject to this part by filing a request in writing with the board and by agreeing in writing to be bound by the terms and provisions hereof.

(d) The term "agricultural employee" means any employee who is employed by a particular agricultural employer and who has been so employed for at least 14 workdays during the preceding 30 calendar days, and has been employed by that employer or another agricultural employer for at least 100 workdays during the preceding calendar year. If otherwise qualified, a person shall be considered an agricultural employee if the agricultural employer pays the wages of the employee and the work is performed for the employer's benefit or on his behalf, even though the supervision, bookkeeping, and the issuance of payroll checks is by a person other than the employer. In calculating a workday of an agricultural employee, one hour or more of employment in any one day shall be considered a workday.

The term "agricultural employee" shall also include any individual whose work has ceased as a proximate effect of, or in connection with, any current labor dispute or because of any unfair labor practice, and who has not obtained any other regular and substantially equivalent employment; but such term and the term "employee" shall not include any of the following individuals:

(1) A person who is employed by his parent, spouse, or by an immediate relative.

(2) A person who has the status of an independent contractor.

(3) A person who is employed as a supervisor, or in a confidential capacity, or as a clerical employee, or as a guard.

(4) A person who is employed as an executive, professional, or technical employee.

(5) A person who has quit, been terminated, or been laid off. For purposes of this paragraph, a striker who is permanently replaced shall be considered terminated.

(6) A person who is a tenant or sharecropper and responsibly directs or shares in the management of an enterprise engaged in agriculture.

(e) The term "employee" includes any employee of any employer, whether or not he comes within the definition of subdivision (d) of this section.

(f) The term "farm" means any enterprise engaged in agriculture which is operated from one headquarters where the utilization of labor and equipment is directed, and which, if consisting of separate tracts of land, is within a 50 mile radius of the headquarters.

(g) The term "representative" includes any individual or labor organization. A "certified representative" means a representative certified pursuant to Chapter 5 (commencing with Section 1150) of this part.

(h) The term "labor organization" means any organization of any kind, or any agency or employee representation committee or plan, in which employees employed by an agricultural employer participate, and which exists for the purpose, in whole or in part, of dealing with agricultural employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work of agricultural employees.

(i) The term "unfair labor practice" means any unfair labor practice specified in Section 1143.8 or 1144.

(j) The term "labor dispute" includes any controversy between an agricultural employer and his agricultural employees or their representative concerning terms, tenure, or conditions of employment, or concerning the association or representation of persons in negotiating, fixing, maintaining, changing, or seeking to arrange terms or conditions of agricultural employment.

(k) The term "board" means the Agricultural Labor Relations Board.

(l) The term "supervisor" means any individual having authority, in the interest of the employer, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or responsibility to direct them, or to adjust their grievances, or effectively to recommend such action, if, in connection with the foregoing, the exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment.

(m) The term "professional employee" means either of the following:

(1) Any employee engaged in work connected with agriculture (i) predominantly intellectual and varied in character, as opposed to routine mental, manual, mechanical, or physical work; or (ii) involving the consistent exercise of discretion and judgment in its performance; or (iii) of such a character that the output produced or the result accomplished cannot be standardized in relation to a given period of time; and (iv) requiring knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study in an institution of higher learning or a hospital, as distinguished from a general academic education or from an apprenticeship or from training in the performance of routine, mental, manual, or physical processes.

(2) Any employee who (i) has completed the courses of specialized intellectual instruction and study described in paragraph (1) (iv) of this subdivision, and (ii) is performing related work under the supervision of a professional person to qualify himself to become a professional employee as defined in paragraph (1).

(n) The term "ultimate consumer" shall mean the person who purchases an agricultural product for consumption.

1140.6. The provisions of this part shall apply only to such persons, labor organizations, or activities as are not within the jurisdiction of the National Labor Relations Act, as amended, or the jurisdictional guidelines established by the National Labor Relations Board.

Chapter 2. Rights of Agricultural Employees and Employers

1142. Agricultural employees shall have the right to self-organization, to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection, except to the extent that such right may impair the rights of aggrieved or injured persons under Sections 1143 to 1143.6, inclusive, and shall also have the right to refrain from any or all of such activities except to the extent that such right may be affected by an agreement requiring membership in a labor organization as a condition of employment as authorized in subdivision (c) of Section 1143.8.

1142.2. An agricultural employer shall have the following management rights:

(a) To manage, control, and conduct his operations, including, but not limited to, the number of ranches and their locations, kinds of crops, methods of growing, harvesting, and handling crops.

(b) Except as limited and qualified by a collective bargaining agreement with a certified representative of employees, to hire, suspend, transfer, and terminate employees, and to fix wages, hours of work, time and assignment of work, size and makeup of crews, place of work, type of equipment or machinery to be used, standards and quality of work, and other conditions directly in-

volving the specific job on which any employee is employed.

(c) To work on his own ranch or any other thereon in any capacity at any time.

(d) To join or refuse to join any labor organization or employer organization.

(e) To speak or convey frankly and fully by any means to his employees or any other persons regarding any matters concerning labor relations or about the issues in any labor dispute, except that the statements of an employer shall not contain any threat of reprisal or force or promise of benefit.

Chapter 3. Unlawful Acts and Unfair Labor Practices

1143. It shall be unlawful for any labor organization, whether or not of the kind defined in subdivision (h) of Section 1140.4, its agents, or any person acting on behalf of or in the interest of any such labor organization, when directed toward an object specified in Section 1143.2:

(a) To induce or encourage any individual employed by any person to engage in a strike or refusal in the course of his employment to use, process, transport, display for sale, sell, distribute, or otherwise handle or work on any agricultural product after such product leaves the farm or situs where grown or produced or to threaten, coerce, or restrain any individual employed as an officer, manager, supervisor, or agent to make a management decision to refuse to use, process, transport, display for sale, distribute, handle, or work on any agricultural product after such product leaves the farm or situs where grown or produced; or

(b) To picket or cause to be picketed, or threaten to picket or cause to be picketed, or otherwise to threaten, restrain, or coerce any agricultural employer or other person; or

(c) To enter into or maintain any contract or agreement, express or implied, with any such labor organization, or any employer or other person.

1143.2. The acts prohibited by Section 1143 shall be unlawful when the purpose of any or all such acts is to force, require, or persuade:

(a) Any person to cease or refrain from using, selling, displaying for sale, processing, transporting, or otherwise dealing in any agricultural product, or to cease doing business with any person using, selling, displaying for sale, processing, transporting, or otherwise dealing in any agricultural product. However, nothing in this subdivision shall be construed to make unlawful, where not otherwise unlawful, any primary strike or primary picketing at a farm or other situs where an agricultural commodity is grown or produced.

(b) Any person to enter into any unlawful agreement pertaining to the production, processing, transporting, marketing, or sale of any agricultural product.

(c) Any agricultural employer to recognize or bargain with a labor organization as the representative of his employees unless such labor organization has been certified as the representative of such employees after a valid secret ballot election conducted pursuant to Chapter 5 (commencing with Section 1150) of this part.

(d) Any agricultural employer to assign particular work to employees in a particular labor organization or in a particular trade, craft, or class, rather than to employees in another labor organization or in another trade, craft, or class.

(e) Any employer or self-employed person engaged in agriculture to join any labor or employer organization.

1143.4. It shall be unlawful for any person to do any of the following:

(a) To threaten, restrain, or coerce, or to attempt to threaten, restrain or coerce, any secondary employer or any executive or management employee of any secondary employer to make a management decision not to handle, transport, process, pack, sell, or distribute any agricultural commodity of an agricultural employer with whom a labor dispute exists.

(b) To induce or encourage the ultimate consumer of any agricultural product to refrain from purchasing, consuming, or using such agricultural product by the misrepresentation of any fact or law, or by the use of dishonest, untruthful, and deceptive publicity. Permissible inducement or encouragement within the meaning of this section shall mean truthful, honest, and nondeceptive publicity which must identify the agricultural product produced by an agricultural employer with whom the labor organization has a primary dispute. Permissible inducement or encouragement shall not include publicity directed against any trademark, trade name, or generic name which includes agricultural products of another producer or user of such trademark, trade name, or generic name, and shall not include picketing at a retail establishment.

(c) To restrain, coerce, or otherwise threaten such ultimate consumer to prevent him from purchasing, consuming, or using such agricultural product.

(d) To do any act in furtherance of the conduct prohibited by Sections 1143, 1143.2, and 1143.4, even though such prohibited act is done or the prohibited conduct is consummated outside the boundaries of this state.

(e) To threaten or engage in arson, mass picketing, libel, slander, injury to person or property, or other violent conduct where an object is to prevent the preparing for market, transporting, handling, or display for sale or selling of any agricultural product.

1143.6. It shall be unlawful for any person to picket or cause to be picketed, any agricultural employer where an object thereof is to induce, encourage, force or require (i) an agricultural employer to recognize or bargain with a labor organization as the representative of his employees, or (ii)

the employees of an agricultural employer to accept or select such labor organization as their collective bargaining representative, unless such labor organization is currently certified as the representative of such employees in any of the following cases:

(a) Where the agricultural employer has lawfully recognized, in accordance with this part, any other labor organization and a question concerning representation may not appropriately be raised under Chapter 5 (commencing with Section 1150) of this part.

(b) Where, within the preceding 12 months, a valid election under Chapter 5 (commencing with Section 1150) of this part has been conducted; or

(c) When such picketing has been conducted without a petition under Chapter 5 (commencing with Section 1150) of this part being filed within a reasonable period of time, not to exceed 30 days from the commencement of such picketing. When such a petition has been filed, the board shall, forthwith, without regard to Section 1150.4, or the absence of a showing of a substantial interest on the part of the labor organization, direct an election in such unit as the board finds to be appropriate, and shall certify the results thereof. Nothing in this subdivision shall be construed to prohibit any picketing or other publicity for the purpose of truthfully advising the public, including consumers, that an employer does not employ members of, or does not have a contract with, a labor organization, unless an effect of such picketing is to induce an individual employed by any other person in the course of his employment, not to pick up, deliver, or transport any agricultural product or not to perform services.

1143.8. It shall be an unfair labor practice for an agricultural employer to do any of the following:

(a) To interfere with, restrain, or coerce employees in the exercise of the rights guaranteed in Section 923 or 1142.

(b) To dominate or interfere with the formation or administration of any labor organization, or contribute financial or other support to it. However, subject to rules and regulations made and published by the board, an agricultural employer shall not be prohibited from permitting employees to confer with him during working hours without loss of time or pay.

(c) By discrimination in regard to hiring, or tenure of employment, or any term or condition of employment, to encourage or discourage membership in any labor organization. However, nothing in this part, or in any other law of the state, shall preclude an agricultural employer from making an agreement with a labor organization, not established, maintained, or assisted by any action defined in Section 1144 as an unfair labor practice, to require as a condition of employment membership therein on or after the 30th day following the beginning of such employment or the effective date of such agreement, whichever is the later, (1) if such labor organization is the repr 'a- tive of the employees, as provided in p- ter 5 (commencing with Section 1150) of this part, in the appropriate collective bargaining unit covered by such agreement when made, and (2) unless, following an election held as provided in such Chapter 5, within one year preceding the effective date of such agreement, the board shall have certified that at least a majority of the employees eligible to vote in such election have voted to rescind the authority of such labor organization to make such an agreement. No agricultural employer shall justify any discrimination against an employee for nonmembership in a labor organization (1) if he has reasonable grounds for believing that such membership was not available to the employee on the same terms and conditions generally applicable to other members, or (2) if he has reasonable grounds for believing that membership was denied or terminated for reasons other than the failure of the employee to tender the periodic dues and the initiation fees uniformly required as a condition of acquiring or retaining membership.

(d) To discharge or otherwise discrimin - ate against an agricultural employee becaus e he has filed charges or given testimony und r this part.

(e) To refuse to bargain collectivel h the representatives of his employees, s ct to the provisions of Chapter 5 (commencing with Section 1150) of this part. However, nothing in this part shall be construed to require an agricultural employer to bargain collectively until a representative of his employees has been determined by means of a valid secret ballot election conducted in accordance with the provisions of such Chapter 5.

1144. It shall be an unfair labor practice for a labor organization or its agents, or any person acting on its behalf, to do any of the following:

(a) To restrain or coerce:

(1) Agricultural employees in the exercise of the rights guaranteed in Section 1142, or to coerce or intimidate any employee in the enjoyment of his legal rights provided in this part, or to intimidate his family or any member thereof, picket his domicile, or injure the person or property of any employee or his family or any member thereof. This paragraph shall not impair the right of a labor organization to prescribe its own rules with respect to the acquisition or retention of membership therein.

(2) An agricultural employer in the selection of his representatives for the purpose of collective bargaining or the adjust ent of grievances.

(b) To cause or attempt to cause an ri- cultural employer to discriminate against an employee in violation of subdivision (c) of

Section 1143.8, or to discriminate against an employee with respect to whom membership in such organization has been denied or ·inated on some ground other than his re to tender the periodic dues and the imuation fees uniformly required as a condition of acquiring or retaining membership.

(c) To refuse to bargain collectively with an agricultural employer, provided it is the representative of his employees subject to the provisions of Section 1150.

(d) To engage in any activity or conduct defined as unlawful in this part, but nothing in this section shall be construed as limiting the rights of aggrieved or injured persons under this part.

(e) To require of employees covered by an agreement authorized under subdivision (c) of Section 1143.8 the payment, as a condition precedent to becoming a member of such organization, of a fee in an amount which the board finds excessive or discriminatory under all the circumstances. In making such a finding, the board shall consider, among other relevant factors, the practices and customs of labor organizations in the particular industry, the expected duration of employment, and the wages currently paid to the employees affected.

(f) To cause or attempt to cause an agricultural employer to do any of the following:

(1) To pay or deliver, or agree to pay or deliver, any money or other thing of value ervices which are not performed or not e performed.

(2) To establish or alter the number of employees to be employed or the assignment thereof.

(3) To assign work to the employees of a particular employer.

(4) To discriminate in regard to hiring, tenure of employment, or conditions of employment.

1144.2. The expressing of any views, argument, opinion, or the dissemination thereof, whether in written, printed, graphic, or visual form, shall not constitute evidence of an unfair labor practice under the provisions of this part, if such expression contains no threat of reprisal or force or promise of benefit. No employer shall be required to furnish or make available to a labor organization, and no labor organization shall be required to furnish or make available to an employer, materials, information, or time to enable such employer or labor organization, as the case may be, to communicate with employees of the employer, members of the labor organization, its supporters, or adherents.

1144.4. For purposes of this section, and Sections 1143.8, 1144, 1144.2, and 1144.6, to bargain collectively is the performance of the mutual obligation of the agricultural employer and the representative of the ·icultural employees to meet at reason- times and confer in good faith with respect to wages, hours, and other terms and conditions of employment which directly affect work of the employees, or the negotiation of an agreement, or any question arising thereunder, or any question concerning the furnishing of necessary and relevant information, if any, requested by the other party in connection with the negotiation of an agreement or any issue arising under such agreement, or requiring as a condition for entering into an agreement the giving of a bond by either party in a sum adequate to compensate the other party for loss caused by breach of the agreement and the execution of a written contract incorporating any agreement reached if requested by either party. Nothing herein contained shall require any agricultural employer to bargain collectively with regard to any management rights as defined herein. The failure or refusal of either party to agree to a proposal, or to the making, changing, or withdrawing of a lawful proposal, or to make a concession shall not constitute, or be evidence, direct or indirect, of a breach of this obligation, nor shall the board, in any remedial order, direct either party to make any concession or agree to any proposal or to make any payment of money except to employees who are reinstated with back pay as provided in Section 1153.4.

"Management rights", as used herein, shall include, but shall not be limited to, the right to discontinue the entire farming operation or any part thereof, to contract out any part of the work thereof, to sell or lease any of the real or personal property involved therein, or to determine the methods, equipment, and facilities to be used in producing agricultural products or the agricultural products to be produced.

1144.6. (a) Where there is in effect a collective bargaining contract covering agricultural employees, the duty to bargain collectively shall also mean that no party to such contract shall terminate or modify such contract, unless the party desiring such termination or modification does all of the following:

(1) Serves a written notice upon the other party to the contract of the proposed termination or modification not less than 60 days prior to the expiration date thereof, or, in the event such contract contains no expiration date, 60 days prior to the time it is proposed to make such termination or modification.

(2) Offers to meet and confer with the other party for the purpose of negotiating a new contract or a contract containing the proposed modifications.

(3) Notifies the Conciliation Service of the State of California within 30 days after such notice of the existence of a dispute, if such a dispute does in fact exist.

(4) Continues the contract in full force and effect, without resorting to strike or lockout, for a period of 60 days after such

notice is given, or until the expiration date of such contract, whichever occurs later.

(b) The duties imposed upon agricultural employers and labor organizations by paragraphs (1), (2) and (3) of subdivision (a) shall become inapplicable upon an intervening certification of the board under which the labor organization or individual which is a party to the contract has been superseded as or ceased to be the representative of the employees, subject to the provisions of Section 1150, and the duties so imposed shall not be construed to require either party to discuss or agree to any modification of the terms and conditions contained in a contract for a fixed period, if such modification is to become effective before such terms and conditions can be reopened under the provisions of the contract. Any agricultural employee who engages in a strike within the 60 day period specified in this section shall lose his status as an agricultural employee of the agricultural employer engaged in the particular labor dispute, for the purposes of Section 1143.8 to 1144.6, inclusive, and Chapters 5 (commencing with Section 1150) and 6 (commencing with Section 1153) of this part, but such loss of status for such employee shall terminate if and when he is reemployed by such employer.

Chapter 4. Agricultural Labor Relations Board

ARTICLE 1. GENERAL PROVISIONS

1146. (a) There is hereby established in state government the Agricultural Labor Relations Board, which shall consist of five members.

(b) The members of the board shall be appointed by the Governor. Two of the members shall be appointed as representatives of agriculture; two of the members shall be appointed as representatives of organized labor; and the fifth member, who shall be designated as the chairman of the board, shall be appointed as a representative of the general public. Not more than three members of the board shall be registered members of the same political party. The term of office of the members shall be four years, and the terms shall be staggered at one-year intervals. Upon the initial appointment, one of the labor representatives shall be appointed for a term ending June 30, 1972; one of the agricultural representatives shall be appointed for a term ending June 30, 1973; one of the agricultural representatives and one of the labor representatives shall be appointed for a term ending January 31, 1975; and the public member of the board shall be appointed for a term ending June 30, 1975. Any individual appointed to fill a vacancy of any member shall be appointed only for the unexpired term of the member to whose term he is succeeding. Members of the board may be removed from office by the Governor upon notice and hearing for neglect of duty or malfeasance in office, but for no other cause.

1146.2. There shall be a general counsel of the board, who shall be appointed by the Governor for a four-year term, or for succeeding four-year terms. The general co shall be the exclusive legal representati the board, and have final authority, on behalf of the board, with respect to the investigation of charges and the issuance of complaints under Chapter 6 (commencing with Section 1153) of this part, and with respect to the prosecution of such complaints by the board, and shall have such other duties as the board may prescribe or as may be provided by law. The general counsel shall appoint such assistants as shall be needed to carry out the work of the office.

1146.4. Each member of the board and the general counsel of the board shall be eligible for reappointment.

1146.5. A vacancy in the board shall not impair the right of the remaining members to exercise all of the powers of the board, and three members shall at all times constitute a quorum. The board shall have an official seal which shall be judicially recognized.

1146.6. The principal office of the board shall be in Sacramento, but it may meet and exercise any or all of its powers at any other place.

1146.7. Besides the principal office in Sacramento, as required by Section 1146.6, the board shall also establish offices in Los Angeles and such other cities as it shall deem necessary, and shall determine the regio be served by such offices. The board delegate to the heads of these offices as it deems appropriate its powers under Chapter 5 (commencing with Section 1150) or Chapter 6 (commencing with Section 1153) of this part to determine the unit appropriate for the purpose of collective bargaining, as defined in Section 1150.2, to investigate and provide for hearings, to determine whether a question of representation exists, and to direct an election by a secret ballot under Section 1150.4 to 1151.6, inclusive, and certify the results of such election. The board may review any action taken pursuant to the authority delegated under this section by any regional officer upon a request for a review of such action filed with the board by any interested party. Any such review made by the board shall not, unless specifically ordered by the board, operate as a stay of any action taken by the regional officer. The entire record considered by the board in considering or acting upon any such request or review shall be made available to all parties prior to such consideration or action, and the board's findings and action thereon shall be published as a decision of the board.

1146.8. The board may meet in executive session upon the decision of a majority of the members of the board.

1146.9. The board may, by one or m of its members or by such agents or age as it may designate, prosecute any inqui y necessary to its functions in any part of the

state. A member of the board who participates in any such inquiry shall not be disqualified from subsequently participating in a decision of the board in the same case.

1147. The board may from time to time make, amend, and rescind, in the manner prescribed in Chapter 4.5 (commencing with Section 11371) of Part 1 of Division 3 of Title 2 of the Government Code, such rules and regulations as may be necessary to carry out the provisions of this part, including the meaning of the terms "temporary" and "permanent" agricultural employees as used in Section 1150.4(b).

1147.1. The board may appoint an executive secretary and such attorneys, hearing officers, trial examiners, and other employees as it may from time to time find necessary for the proper performance of its duties.

1147.2. The board may not employ any attorney for the purpose of reviewing transcripts of hearings or preparing drafts of opinions, except that any attorney employed for assignment as a legal assistant to any board member may, for such board member, review such transcripts and prepare such drafts.

1147.3. No trial examiner's report shall be reviewed, either before or after its publication, by any person other than a member of the board or his legal assistant, and no trial examiner shall advise or consult with the board with respect to exceptions taken to his findings, rulings, or recommendations.

1147.4. Attorneys appointed pursuant to Section 1147.1 may, at the discretion of the board, appear for and represent the board in any case in court.

1147.5. All of the expenses of the board, including all necessary traveling and subsistence expenses throughout the state, incurred by the members or employees of the board under its orders shall be allowed and paid on the presentation of itemized vouchers therefor approved by the board or any individual it designates for that purpose.

ARTICLE 2. INVESTIGATORY POWERS

1148. For the purposes of all hearings and investigations which, in the opinion of the board, are necessary and proper for the exercise of the powers vested in it by Chapters 5 (commencing with Section 1150) and 6 (commencing with Section 1153) of this part, the board, or its duly authorized agents or agencies, shall, at all reasonable times, have access to, for the purpose of examination and the right to copy, any evidence of any person being investigated or proceeded against that relates to any matter under investigation or in question. The board or any member thereof shall, upon application of any party to such proceedings, forthwith issue to such party subpenas requiring the attendance and testimony of witnesses or the production of any evidence in such proceeding or investigation requested in such application. Within five days after the service of a subpena on any person requiring the production of any evidence in his possession or under his control, such person may petition the board to revoke, and the board shall revoke, such subpena if, in its opinion, the evidence the production of which is required does not relate to any matter under investigation, or any matter in question in such proceedings, or if in its opinion such subpena does not describe with sufficient particularity the evidence the production of which is required. Any member of the board, or any agent or agency designated by the board for such purposes, may administer oaths and affirmations, examine witnesses, and receive evidence. Such attendance of witnesses and the production of such evidence may be required from any place in the state, at any designated place of hearing. Any hearing scheduled hereunder shall be held in the county wherein the employer has its principal place of business, or where the unfair labor practice occurred, or where the majority of the employees who are entitled to vote in an election are currently working.

1148.1. In case of contumacy or refusal to obey a subpena issued to any person, the superior court of the county within the jurisdiction of which such person guilty of contumacy or refusal to obey is found or resides or transacts business, upon application by the board, shall have jurisdiction to issue to such person an order requiring such person to appear before the board, its member, agent, or agency, there to produce evidence if so ordered, or there to give testimony touching the matter under investigation or in question. Any failure to obey such order of the court may be punished by such court as contempt.

1148.2. No person shall be excused from attending and testifying, or from producing books, records, correspondence, documents, or other evidence, in obedience to the subpena of the board on the ground that the testimony or evidence required of him may tend to incriminate him or subject him to a penalty or forfeiture. However, no individual shall be prosecuted in any manner or subjected to any penalty or forfeiture whatever for or on account of any transaction, matter, or thing concerning which he is compelled, after having claimed his privilege against self-incrimination, to testify or produce evidence, except that such individual so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying.

1148.3. Complaints, orders, and other process and papers of the board, its members, agent, or agency, may be served either personally or by registered or certified mail, or by telegraph, or by leaving a copy thereof at the principal office, place of business, or residence of the person required to be served. The verified return by the individual so serving the same, setting forth the time, place, and manner of such service, shall be proof of the service, and the return post office

receipt or telegraph receipt therefor, when registered or certified, and mailed or telegraphed, shall be proof of service of the same. Witnesses summoned before the board, its members, agent, or agency shall be paid the same fees and mileage that are paid witnesses in the superior court, and witnesses whose depositions are taken and the persons taking the same shall severally be entitled to the same fees as are paid for like services in the superior court.

1148.4. The several departments and agencies of the state, when directed by the Governor, shall furnish the board, upon its request, all unprivileged records, papers, and information in their possession relating to any matter before the board.

Chapter 5. Labor Representatives and Elections

1150. Representatives selected by a secret ballot for the purposes of collective bargaining by the majority of the agricultural employees in a unit appropriate for such purposes shall be the exclusive representatives of all the agricultural employees in such unit for the purpose of collective bargaining with respect to rates of pay, wages, hours of employment, or other conditions of employment, but if ratification of any such contract shall be required, the right to vote in such ratification shall be limited to the agricultural employees in the bargaining unit. Any individual agricultural employee or a group of agricultural employees shall have the right at any time to present grievances to their agricultural employer and to have such grievances adjusted, without the intervention of the bargaining representative, as long as the adjustment is not inconsistent with the terms of a collective bargaining contract or agreement then in effect, if the bargaining representative has been given opportunity to be present at such adjustment.

1150.2. The unit appropriate for the purposes of collective bargaining shall consist of all agricultural employees of an agricultural employer working at the farm where such employer grows or produces agricultural products unless the persons filing a petition under this chapter and the employer involved agree that a different unit is also an appropriate bargaining unit.

1150.4. Whenever a petition shall have been filed in accordance with such regulations as may be prescribed by the board either:

(a) By an agricultural employee or group of agricultural employees, or any individual or labor organization acting in their behalf, alleging that 30 percent or more of the number of agricultural employees in the unit in question either (1) wish to be represented for collective bargaining and their employer declines to recognize their representative as the representative defined in this chapter, or (2) assert that the individual or labor organization which has been certified, or is being currently recognized by their employer, as the bargaining representative is no longer a representative as defined in this chapter; or

(b) By an agricultural employer stating that one or more individuals or labor organizations have presented to him a claim to be recognized as the representative, as defined in this chapter, or that an individual or labor organization which has previously been certified as the bargaining representative is no longer a representative, the board shall investigate such petition and, if it has reasonable cause to believe that a question of representation exists, it shall provide for an appropriate hearing upon due notice. If the board finds upon the record of such hearing that such a question of representation exists, it shall direct an election by secret ballot to be held, and shall certify the results thereof. If a second labor organization files a petition for an election alleging that 15 percent or more of the agricultural employees in the unit in question desire to be represented by that labor organization, then the board shall require that the names of both labor organizations shall appear on the ballot. On all ballots the voters shall be afforded the choice of "no union". In any election, a labor organization must obtain a majority of all votes cast in that election in order to be certified by the board as the bargaining representative of all the agricultural employees in that unit. The date of such election shall be set at a time when the number of temporary agricultural employees entitled to vote does not exceed the number of permanent agricultural employees entitled to vote.

1150.6. In determining whether or not a question of representation exists, the same regulations and rules of decision shall apply irrespective of the identity of the persons filing the petition, the kind of relief sought, or whether the persons filing such petition did so in good faith. In no case shall the board deny a labor organization a place on the ballot by reason of an order with respect to such labor organization or its predecessor not issued in conformity with Section 1153.4.

1150.8. Within five days of receipt of such a petition filed under the provisions of subdivision (a) of Section 1150.4, the agricultural employer may file a challenge to such petition on the ground that the authorization for the filing of such petition is not valid, that such authorization is not current, or that such authorization has been obtained by fraud, misrepresentation, or coercion. The issues raised by such challenge shall be set down for an appropriate hearing, and the board shall, after hearing, determine whether the petition is supported by the required authorizations.

1151. No election shall be directed in any bargaining unit or any subdivision within which, in the preceding 12-month period, a valid election shall have been held. Agricul-

tural employees engaged in an economic strike who are not entitled to reinstatement shall be eligible to vote under such regulations as the board shall find are consistent with the purposes and provisions of this part in any election conducted within three months after the commencement of the strike. An agricultural employee who has voted in a valid election shall not be eligible to vote in any election at the farm of another agricultural employer in the same geographical area for a period of 12 months thereafter. Any agricultural employee who shall be found to have sought or accepted employment for the purposes of affecting the outcome of an election shall not be eligible to vote in an election conducted pursuant to the provisions of this part for a period of 12 months from the date of that election.

1151.2. Nothing in this chapter shall be construed to prohibit the waiving of hearings by stipulation for the purpose of a consent election in conformity with regulations and rules of decision of the board.

1151.4. The agricultural employer, on request of the board, shall furnish to the board a list of agricultural employees in the bargaining unit who are qualified to vote, and such a list shall be held in confidence by the board until the time of election.

1151.6. (a) Upon the filing with the board by 30 percent or more of the agricultural employees in a bargaining unit covered by certification or by an agreement between their employer and a labor organization made pursuant to subdivision (c) of Section 1143.8, of a petition alleging the desire that such representation authority be rescinded, the board shall conduct an election by secret ballot of the agricultural employees in such unit, and certify the results thereof to such labor organization and to the employer.

(b) No election shall be conducted pursuant to this section in any bargaining unit or any subdivision within which, in the preceding 12-month period, a valid election shall have been held.

Chapter 6. Prevention of Unfair Labor Practices.

1153. The board is empowered, as provided in this chapter, to prevent any person from engaging in any unfair labor practice, as set forth in Chapter 3 (commencing with Section 1143).

1153.2. Whenever it is charged that any person has engaged in or is engaging in any such unfair labor practice, the board, or any agent or agency designated by the board for such purposes, shall have power to issue and cause to be served upon such person a complaint stating the charges in that respect, and containing a notice of an administrative hearing before the board or a member thereof, or before a designated agent or agency, at a place therein fixed, not less than five days after the serving of such complaint. No complaint shall issue based upon any unfair labor practice occurring more than six months prior to the filing of the charge with the board and the service of a copy thereof upon the person against whom such charge is made, unless the person aggrieved thereby was prevented from filing such charge by reason of service in the armed forces, in which event the six-month period shall be computed from the day of his discharge. Any such complaint may be amended by the member, agent, or agency conducting the hearing, or the board in its discretion, at any time prior to the issuance of an order based thereon. The person so complained against shall have the right to file an answer to the original or amended complaint and to appear in person or otherwise and give testimony at the place and time fixed in the complaint. In the discretion of the member, agent, or agency conducting the hearing or the board, any other person may be allowed to intervene in the proceeding and to present testimony. Any such proceeding shall, so far as practicable, be conducted in accordance with the rules of evidence applicable in the superior court under the rules of civil procedure applicable to such courts. All proceedings shall be appropriately reported.

1153.4. The testimony taken by such member, agent, or agency or the board in such administrative hearing shall be reduced to writing and filed with the board. Thereafter, in its discretion, the board, upon notice, may take further testimony or hear argument. If, upon the preponderance of the testimony taken as a whole, the board shall be of the opinion that any person named in the complaint has engaged in or is engaging in any such unfair labor practice, the board shall state its findings of fact and shall issue and cause to be served on such person an order requiring such person to cease and desist from such unfair labor practice, and to take such affirmative action, including reinstatement of employees with or without back pay, as will effectuate the policies of this part. Where an order directs reinstatement of an employee, back pay may be required of the employer or labor organization, as the case may be, responsible for the discrimination suffered by him. Such order may further require such person to make reports from time to time showing the extent to which it has complied with the order. If, upon the preponderance of the testimony taken, the board shall be of the opinion that the person named in the complaint has not engaged in or is not engaging in any such unfair labor practice, the board shall state its findings of fact and shall issue an order dismissing the complaint. No order of the board shall require the reinstatement of any individual as an employee who has been suspended or discharged, or the payment to him of any back pay, if such individual was suspended or discharged for cause. In case the evidence is presented before a member of the board, or before an examiner or examiners thereof, such member, or such examiner or

examiners, as the case may be, shall issue and cause to be served on the parties to the proceedings a proposed report, together with a recommended order, which shall be filed with the board, and, if no exceptions are filed within 20 days after service thereof upon such parties, or within such further period as the board may authorize, such recommended order shall become the order of the board and become effective as therein prescribed.

1153.6. Until the record in a case shall have been filed in a court, as provided in this chapter, the board may, at any time upon reasonable notice and in such manner as it shall deem proper, modify or set aside, in whole or in part, any finding or order made or issued by it.

1153.8. The board shall have the power to petition any superior court of the state in any county wherein the unfair labor practice in question occurred, or wherein such person resides or transacts business, for the enforcement of such order and for appropriate temporary or permanent injunctive relief. Upon the filing of such petition the court shall cause notice thereof to be served upon such person, and thereupon shall have jurisdiction of the proceeding and of the question determined therein, and such court shall have jurisdiction over any proceedings brought under Section 1094.5 of the Code of Civil Procedure, and shall have power to grant such temporary or permanent injunctive relief as it deems just and proper.

1154. Any person aggrieved by a final order of the board granting or denying in whole or in part the relief sought may obtain a review of such order in any superior court of this state under the provisions of Section 1094.5 of the Code of Civil Procedure, in the county wherein the unfair labor practice in question was alleged to have been engaged in, by filing in such court a written petition praying that the order of the board be modified or set aside. Upon the filing of such petition, the court shall proceed in the same manner as in the case of an application by the board under Section 1153.8, and shall have the same jurisdiction to grant to the board such temporary relief or restraining order as it deems just and proper, and in like manner to make and enter a decree enforcing, modifying, and enforcing as so modified, or setting aside in whole or in part the order of the board. The findings of the board with respect to questions of fact if supported by substantial evidence on the record considered as a whole shall in like manner be conclusive.

1154.2. The board shall have the power, upon issuance of a complaint as provided in Section 1153.2 charging that any person has engaged in or is engaging in an unfair labor practice, to petition the superior court in any county wherein the unfair labor practice in question is alleged to have occurred, or wherein such person resides or transacts business, for appropriate temporary relief or restraining order. Upon the filing of any such petition, the court shall cause notice thereof to be served upon such person, and thereupon shall have jurisdiction to grant to the board such temporary relief or restraining order as the court deems just and proper.

1154.4. Whenever it is charged that any person has engaged in an unfair labor practice within the meaning of subdivision (d) of Section 1144, the preliminary investigation of such charge shall be made forthwith and given priority over all other cases except cases of like character in the office where it is filed or to which it is referred. If, after such investigation, the officer to whom the matter may be referred has reasonable cause to believe such charge is true and that a complaint should issue, he shall, on behalf of the board, petition the superior court in the county in which the unfair labor practice in question has occurred, is alleged to have occurred, or where the person alleged to have committed the unfair labor practice resides or transacts business, for appropriate injunctive relief pending the final adjudication of the board with respect to such matter. Upon the filing of any such petition, the superior court shall have jurisdiction to grant such temporary injunctive relief or temporary restraining order as it deems just and proper. However, no temporary restraining order shall be issued without notice unless a petition alleges that substantial and irreparable injury to the charging party will be unavoidable, and such temporary restraining order shall be effective for no longer than five days and will become void at the expiration of such period. Upon filing of any such petition, the court shall cause notice thereof to be served upon any person complained against in the charge, and such person, including the charging party, shall be given an opportunity to appear in person or by counsel and present any relevant testimony. For the purposes of this section, the superior court shall be deemed to have jurisdiction of a labor organization either in the county in which such organization maintains its principal office, or in any county in which its duly authorized officers or agents are engaged in promoting or protecting the interests of employee members. The service of legal process upon such officer or agent shall constitute service upon the labor organization and make such organization a party to the suit.

Chapter 7. Court Jurisdiction

1156. Whoever shall be aggrieved or shall be injured in his business or property by reason of any violation of this part, or any violation of an injunction issued as provided in this chapter or in Chapter 6 (commencing with Section 1153) of this part, may sue in any superior court of the state having jurisdiction of the parties to recover damages resulting from such unlawful action, regardless of where such unlawful action

occurred, and regardless of where such damage occurred, and for costs of the suit. Upon the filing of such suit the court shall have jurisdiction to grant such temporary injunctive relief as it deems just and proper. The filing of any such action shall not affect the jurisdiction of the board to act as provided in Chapter 6 (commencing with Section 1153). Petitions for temporary restraining orders alleging a violation of Section 1143, 1143.2, 1143.4, or 1143.6 shall be heard forthwith, and, if the petition alleges that substantial and irreparable injury to the petitioner is unavoidable, such temporary restraining orders may be issued without notice and shall continue in effect until the court has heard and ruled upon a request for a temporary injunction.

1156.2. In the case of a strike or boycott, or threat of a strike or boycott, against an agricultural employer, the court shall be empowered to grant, and upon proper application by the board or by the agricultural employer shall grant as herein provided a 60-day restraining order enjoining such a strike or boycott in order to enable such employer and his employees and their representative, if any, to seek voluntarily to resolve the dispute by conciliation, and any agricultural employer shall be entitled to injunctive relief upon the filing of a verified petition showing that his agricultural employees are on strike or are conducting a boycott or are threatening to strike or boycott.

1156.3. For the purposes of this part, the superior court shall have jurisdiction over a labor organization in this state if such organization maintains its principal office in this state, or if its duly authorized officers or agents are engaged in promoting or protecting the interests of employee members or in the solicitation of prospective members in this state.

1156.4. The service of summons, subpena, or other legal process of any superior court upon an officer or agent of a labor organization, in his capacity as such, shall constitute service upon the labor organization. A labor organization shall designate an agent on whom legal process may be served in the absence of any officer or agent, and a court shall, on proper application, enjoin picketing or other activity by a labor organization which fails to make such a designation.

1156.6. Any labor organization which represents employees as defined in this part, and any employer, shall be bound by the acts of its agents. Any such labor organization may sue or be sued as an entity and in behalf of the employees whom it represents in the courts of this state.

1156.8. For the purposes of this part, in determining whether any person is acting as an agent of another person so as to make such other person responsible for his acts, the question of whether the specific acts performed were actually authorized or subsequently ratified shall not be controlling.

Chapter 8. Penalties and Limitations

1158. Any person who shall willfully resist, prevent, impede, or interfere with any member of the board, or any of its agents or agencies, in the performance of duties pursuant to this part, or who shall do any act made unlawful by this part, shall be punished by a fine of not more than five thousand dollars ($5,000), or by imprisonment for not more than one year, or both.

1158.2. Nothing in this part, except as otherwise specifically provided, shall be construed so as either to interfere with or impede or diminish in any way the right to strike, or to affect the limitations or qualifications on that right.

1158.4. Nothing in this part shall prohibit any individual employed as a supervisor from becoming or remaining a member of a labor organization, but no employer subject to this part shall be compelled to deem individuals defined herein as supervisors as employees for the purpose of any law, either national or local, relating to collective bargaining.

1158.6. (a) If any provision of this part, or the application of such provision to any person or circumstances, shall be held invalid, the remainder of this part, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

(b) If any other act of the Legislature shall conflict with the provisions of this part, this part shall prevail.

CERTIFICATE OF SECRETARY OF STATE

I, Edmund G. Brown Jr., Secretary of State of the State of California, do hereby certify that the foregoing measures will be submitted to the electors of the State of California at the GENERAL ELECTION to be held throughout the State on November 7, 1972, and that the foregoing pamphlet is correct.

Witness my hand and the Great Seal of the State, at office in Sacramento, California, this thirtieth day of August, 1972.

Edmund G. Brown Jr.

EDMUND G. BROWN JR.
Secretary of State

printed in CALIFORNIA OFFICE OF STATE PRINTING

EXHIBIT D

2010

ELECTIONS. INCREASES RIGHT TO PARTICIPATE IN PRIMARY ELECTIONS.

PROPOSITION
14

ELECTIONS. INCREASES RIGHT TO PARTICIPATE IN PRIMARY ELECTIONS.

OFFICIAL TITLE AND SUMMARY — PREPARED BY THE ATTORNEY GENERAL

ELECTIONS. INCREASES RIGHT TO PARTICIPATE IN PRIMARY ELECTIONS.

- Encourages increased participation in elections for congressional, legislative, and statewide offices by changing the procedure by which candidates are selected in primary elections.
- Gives voters increased options in the primary by allowing all voters to choose any candidate regardless of the candidate's or voter's political party preference.
- Provides that candidates may choose not to have a political party preference indicated on the primary ballot.
- Provides that only the two candidates receiving the greatest number of votes in the primary will appear on the general election ballot regardless of party preference.
- Does not change primary elections for President, party committee offices and nonpartisan offices.

Summary of Legislative Analyst's Estimate of Net State and Local Government Fiscal Impact:

- No significant net change in state and local government costs to administer elections.

FINAL VOTES CAST BY THE LEGISLATURE ON SCA 4 (PROPOSITION 14)
(Resolution Chapter 2, Statutes of 2009)

Senate:	Ayes 27	Noes 12
Assembly:	Ayes 54	Noes 20

ANALYSIS BY THE LEGISLATIVE ANALYST

BACKGROUND

Primary and General Elections. California generally holds two statewide elections in even-numbered years to elect candidates to state and federal offices—a primary election (in June) and a general election (in November). These elections (such as those for Governor and Members of Congress) are partisan, which means that most candidates are associated with a political party. For these partisan offices, the results of a primary election determine each party's nominee for the office. The candidate receiving the most votes in a party primary election is that party's nominee for the general election. In the general election, voters choose among all of the parties' nominees, as well as any independent candidates. (Independent candidates—those not associated with a party—do not participate in primary elections.) The winner of the general election then serves a term in that office.

Ballot Materials Under Current Primary System. For every primary election, each county prepares a ballot and related materials for each political party. Those voters affiliated with political parties receive their party's ballot. These party ballots include partisan offices, nonpartisan offices, and propositions. Voters with no party affiliation receive ballots related only to nonpartisan offices and propositions. Parties, however, may allow voters with no party affiliation to receive their party's ballot.

ANALYSIS BY THE LEGISLATIVE ANALYST CONTINUED

Partisan Statewide Elections in California. Partisan elections for state office include those for the Governor, Lieutenant Governor, Controller, Secretary of State, Treasurer, Insurance Commissioner, Attorney General, the 120 members of the Legislature, and four members of the State Board of Equalization. (The Superintendent of Public Instruction is a nonpartisan state office.) Partisan elections also are held for federal offices including President, Vice President, and Members of Congress.

PROPOSAL

This measure, which amends the State Constitution, changes the election process for most state and federal offices. Its provisions and related legislation would take effect for elections after January 1, 2011.

Creates a Top-Two Primary Election. This measure creates a single ballot for primary elections for those congressional and state elective offices shown in Figure 1. Candidates would indicate for the ballot either their political party (the party chosen on their voter registration) or no party preference. All candidates would be listed—including independent candidates, who now would appear on the primary ballot. Each voter would cast his or her vote using this single primary ballot. A voter registered with the Republican Party, for example, would be able to vote in the primary election for a candidate registered as a Democrat, a candidate registered as a Republican, or any other candidate. The two candidates with the highest number of votes in the primary election—regardless of their party preference—would advance to compete in the general election. In fact, the two candidates in the general election could have the same party preference.

Figure 1
Offices Affected by Proposition 14

Statewide Officials
Governor
Lieutenant Governor
Secretary of State
Treasurer
Controller
Insurance Commissioner
Attorney General

Other State Officials
State Senators
State Assembly Members
State Board of Equalization Members

Congressional Officials
United States Senators
Members of the U.S. House of Representatives

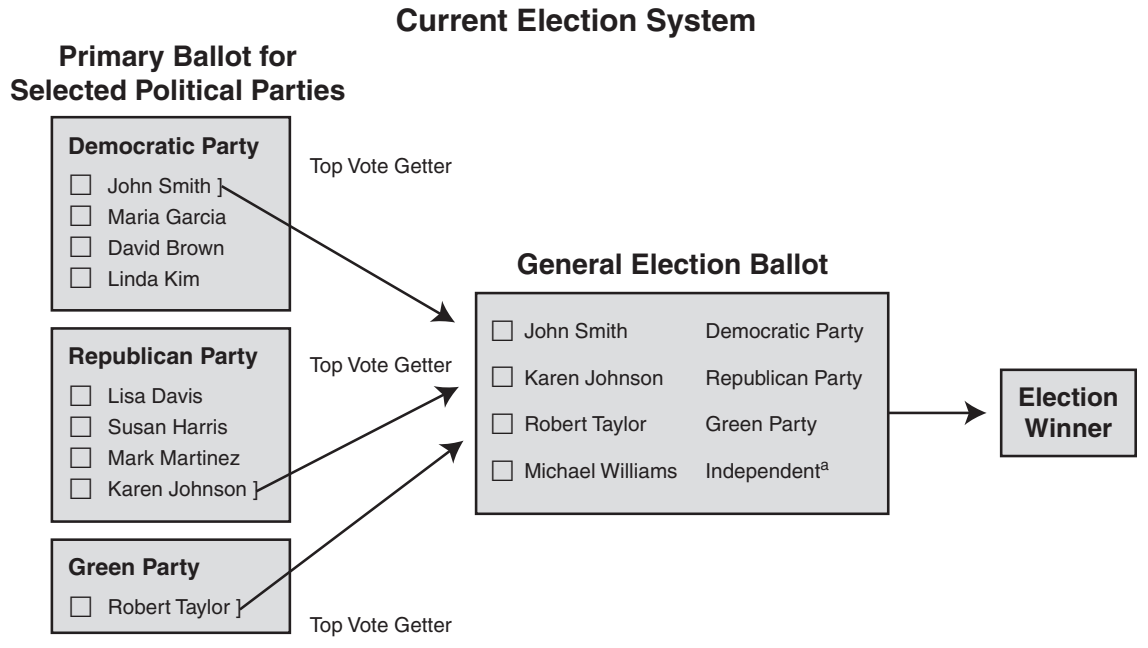
For text of Proposition 14, see page 65.

ANALYSIS BY THE LEGISLATIVE ANALYST **CONTINUED**

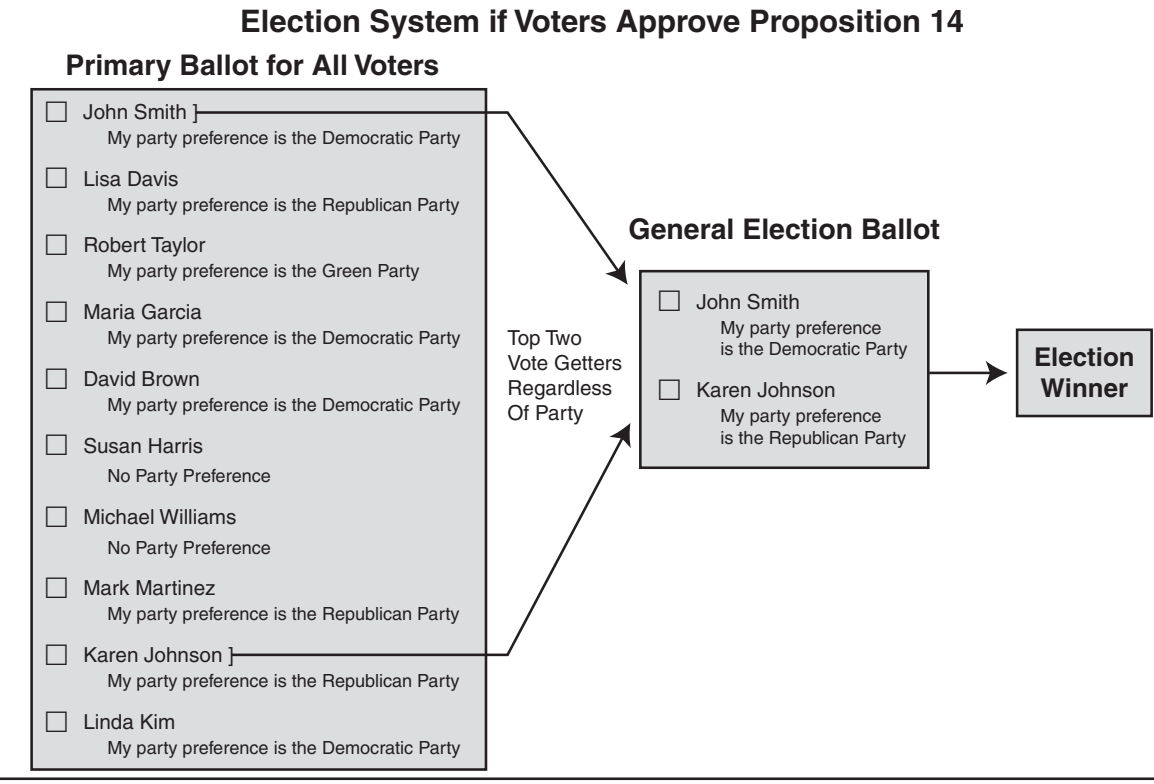
Figure 2 illustrates how a ballot for an office might appear if voters approve this measure and shows how this is different from the current system.

Figure 2

Example of How Ballots Would Change if Voters Approve Proposition 14



[a]Independent candidates do not participate in party primaries under the current system.



ANALYSIS BY THE LEGISLATIVE ANALYST CONTINUED

Does Not Affect Presidential Elections and Political Party Leadership Positions. Under this measure, there would still be partisan primary elections for presidential candidates and political party offices (including party central committees, party officials, and presidential delegates).

FISCAL EFFECTS

Minor Costs and Savings. This measure would change how elections officials prepare, print, and mail ballot materials. In some cases, these changes could increase these state and county costs. For instance, under this measure, all candidates—regardless of their party preference—would be listed on each primary election ballot. This would make these ballots longer. In other cases, the measure would reduce election costs. For example, by eliminating in some instances the need to prepare different primary ballots for each political party, counties sometimes would realize savings. For general election ballots, the measure would reduce the number of candidates (by only having the two candidates who received the most votes from the primary election on the ballot). This would make these ballots shorter. The direct costs and savings resulting from this measure would be relatively minor and would tend to offset each other. Accordingly, we estimate that the measure's fiscal effects would not be significant for state and local governments.

Indirect Fiscal Effects Impossible to Estimate. In some cases, this measure would result in different individuals being elected to offices than under current law. Different officeholders would make different decisions about state and local government spending and revenues. These indirect fiscal effects of the measure are unknown and impossible to estimate.

For text of Proposition 14, see page 65.

PROP 14 ELECTIONS. INCREASES RIGHT TO PARTICIPATE IN PRIMARY ELECTIONS.

★ ARGUMENT IN FAVOR OF PROPOSITION 14 ★

Our economy is in crisis.

Unemployment in California is over 12%.

The Legislature, whose members were all elected under the current rules, repeatedly fails to pass the state budget on time, or close the state's gaping $20+ billion fiscal deficit.

Our state government is broken.

But the politicians would rather stick to their rigid partisan positions and appease the special interests than work together to solve California's problems.

In order to change government we need to change the kind of people we send to the Capitol to represent us.

IT'S TIME TO END THE BICKERING AND GRIDLOCK AND FIX THE SYSTEM

The politicians won't do it, but Proposition 14 will.

• Proposition 14 will open up primary elections. You will be able to vote for any candidate you wish for state and congressional offices, regardless of political party preference. It will reduce the gridlock by electing the best candidates.

• Proposition 14 will give independent voters an equal voice in primary elections.

• Proposition 14 will help elect more practical office-holders who are more open to compromise.

"The best part of the open primary is that it would lessen the influence of the major parties, which are now under control of the special interests." (*Fresno Bee,* 2/22/09.)

PARTISANSHIP IS RUNNING OUR STATE INTO THE GROUND

Non-partisan measures like Proposition 14 will push our elected officials to begin working together for the common good.

Join AARP, the California Alliance for Jobs, the California Chamber of Commerce and many Democrats, Republicans, and independent voters who want to fix our broken government. Vote YES on Proposition 14.

Vote Yes on 14—for elected representatives who are LESS PARTISAN and MORE PRACTICAL.

www.YESON14OPENPRIMARY.com

JEANNINE ENGLISH, AARP
California State President
JAMES EARP, Executive Director
California Alliance for Jobs
ALLAN ZAREMBERG, President
California Chamber of Commerce

★ REBUTTAL TO ARGUMENT IN FAVOR OF PROPOSITION 14 ★

Politicians wrote Proposition 14 to change the law so they can conceal their party affiliation on the election ballot. Voters won't know whether they are choosing a Democrat, Republican, Libertarian, or Green Party candidate.

The proponents claim their measure will stop partisan politics. But how is allowing politicians to hide their party affiliation going to fix partisanship? Proposition 14 is politicians trying to trick voters into thinking they are "independent."

What the proponents don't tell you is that special interests are raising hundreds of thousands of dollars to pass Proposition 14, including money from health insurance corporations, developers and financial institutions, because Proposition 14 will make it easier for them to elect candidates they "choose." But you won't know which political party the candidate belongs to.

Proposition 14 will decrease voter choice. It prohibits write-in candidates in general elections. Only the top two vote getters advance to the general election regardless of political party. Special interests with money will have the advantage in electing candidates they support.

Currently, only two states use "top-two" elections. In 2008, Washington State had 139 races and only ONE incumbent lost a primary. Proposition 14 will protect incumbents.

California Nurses, Firefighters and Teachers have joined with groups like the Howard Jarvis Taxpayers Association to oppose Proposition 14. These organizations don't usually agree on political issues. But this time they do.

Candidates who ask for your vote shouldn't be allowed to conceal their political party.

Stop the special interest tricks. No on Proposition 14.

ED COSTANTINI, Professor Emeritus of Political Science
University of California, Davis
NANCY J. BRASMER, President
California Alliance of Retired Americans
STEVE CHESSIN, President
Californians for Electoral Reform

PROP 14 ELECTIONS. INCREASES RIGHT TO PARTICIPATE IN PRIMARY ELECTIONS.

★ ARGUMENT AGAINST PROPOSITION 14 ★

Proposition 14 was written in the middle of the night and put on the ballot by a couple of politicians and Arnold Schwarzenegger. They added their own self-serving little twist.

They call it an "open primary" but CANDIDATES WILL BE ALLOWED TO CONCEAL THEIR PARTY AFFILIATION FROM VOTERS. The current requirement that candidates list their party on the ballot is abolished.

Proposition 14 will also decrease voter choice and make elections more expensive:

• The general election will not allow write-in candidates.

• Elections will cost more money at a time when necessary services like firefighters, police and education are being cut. County election officials predict an increased cost of 30 percent.

• Voter choice will be reduced because the top two vote getters advance to the general election regardless of political party.

• This means voters may be forced to choose between two candidates from the same political party. Democrats could be forced to choose between two Republicans, or not vote at all. Republicans could be forced to choose between two Democrats, or not vote at all.

• Independent and smaller political parties like Greens and Libertarians will be forced off the ballot, further reducing choice.

Can't politicians ever do anything without scheming something that's in their self-interest?

Here's the zinger they stuck in Proposition 14 . . .

"Open Candidate Disclosure. At the time they file to run for public office, all candidates shall have the choice to declare a party preference. The names of candidates who choose not to declare a party preference shall be accompanied by the designation 'No Party Preference' on both the primary and general election ballots."

Very clever! They're making it look like they are "independents" while actually remaining in their political party. *Business as usual disguised as "reform."*

POLITICIANS ARE CHANGING THE LEGAL REQUIREMENT THAT MAKES THEM DISCLOSE THEIR POLITICAL PARTY.

Democrats will end up voting for Republican imposters. Republicans will end up voting for Democratic imposters.

Will you be voting for a member of the Peace and Freedom Party? The Green Party? The Libertarian Party? You won't really know.

Special interest groups will pump money into trick candidates . . . imposters with hidden agendas we can't see.

Currently, when a rogue candidate captures a nomination, voters have the ability to write-in the candidate of their choice in the general election. But a hidden provision PROHIBITS WRITE-IN VOTES from being counted in general elections if Prop. 14 passes.

That means if one of the "top two" primary winners is convicted of a crime or discovered to be a member of an extremist group, voters are out of luck because Prop. 14 ends write-in voting.

Firefighters have joined with teachers, nurses and the Howard Jarvis Taxpayers Association opposing this initiative.

> "The politicians behind Prop. 14 want to raise taxes without being held accountable. Vote NO."— Jon Coupal, President Howard Jarvis Taxpayers Association

We need "Open Primaries" to be "Open." That means full disclosure on the ballot and no tricks. No on Proposition 14.

KEVIN R. NIDA, President
California State Firefighters' Association
ALLAN CLARK, President
California School Employees Association
KATHY J. SACKMAN, RN, President
United Nurses Associations of California / Union of Health Care Professionals

★ REBUTTAL TO ARGUMENT AGAINST PROPOSITION 14 ★

Proposition 14 is supported by people like you who are sick of the mess in Sacramento and Washington D.C. and want to do something about it.

The opponents of Proposition 14 are primarily special interests who helped create this mess and benefit from the way things are.

Their claims are deceptive and absurd.

FACT: If Proposition 14 passes, every candidate's party registration for the past decade will be posted publicly. This means no candidate will be able to mislead voters about their party registration history. And it's more disclosure than is required of candidates today.

FACT: Proposition 14 will have no significant financial impacts whatsoever.

Why do opponents of reform make these false charges? Because they benefit from a system that is broken.

Vote yes on 14 to:

• Reduce gridlock by electing the best candidates to state office and Congress, regardless of political party;

• Give independent voters an equal voice in primary elections; and

• Elect more practical individuals who can work together for the common good.

Vote Yes on 14. We've had enough.

www.YESON14OPENPRIMARY.com

JEANNINE ENGLISH, AARP
California State President
CARL GUARDINO, President
Silicon Valley Leadership Group
ALLAN ZAREMBERG, President
California Chamber of Commerce

shall not be bound by the findings of the lead governmental agency in determining whether the presumption has been overcome.

(4) This subdivision applies only to replacement property that is acquired or constructed on or after January 1, 1995, and to property repairs performed on or after that date.

(j) Unless specifically provided otherwise, amendments to this section adopted prior to November 1, 1988, ~~shall be~~ *are* effective for changes in ownership that occur, and new construction that is completed, after the effective date of the amendment. Unless specifically provided otherwise, amendments to this section adopted after November 1, 1988, ~~shall be~~ *are* effective for changes in ownership that occur, and new construction that is completed, on or after the effective date of the amendment.

PROPOSITION 14

This amendment proposed by Senate Constitutional Amendment 4 of the 2009–2010 Regular Session (Resolution Chapter 2, Statutes of 2009) expressly amends the California Constitution by amending sections 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 LAW

First—This measure shall be known and may be cited as the "Top Two Candidates Open Primary Act."

Second—The People of the State of California hereby find and declare all of the following:

(a) Purpose. The Top Two Candidates Open Primary Act is hereby adopted by the People of California to protect and preserve the right of every Californian to vote for the candidate of his or her choice. This act, along with legislation already enacted by the Legislature to implement this act, are intended to implement an open primary system in California as set forth below.

(b) Top Two Candidate Open Primary. All registered voters otherwise qualified to vote shall be guaranteed the unrestricted right to vote for the candidate of their choice in all state and congressional elections. All candidates for a given state or congressional office shall be listed on a single primary ballot. The top two candidates, as determined by the voters in an open primary, shall advance to a general election in which the winner shall be the candidate receiving the greatest number of votes cast in an open general election.

(c) Open Voter Registration. At the time they register, all voters shall have the freedom to choose whether or not to disclose their party preference. No voter shall be denied the right to vote for the candidate of his or her choice in either a primary or a general election for statewide constitutional office, the State Legislature, or the Congress of the United States based upon his or her disclosure or nondisclosure of party preference. Existing voter registrations, which specify a political party affiliation, shall be deemed to have disclosed that party as the voter's political party preference unless a new affidavit of registration is filed.

(d) Open Candidate Disclosure. At the time they file to run for public office, all candidates shall have the choice to declare a party preference. The preference chosen shall accompany the candidate's name on both the primary and general election ballots. The names of candidates who choose not to declare a party preference shall be accompanied by the designation "No Party Preference" on both the primary and general election ballots. Selection of a party preference by a candidate for state or congressional office shall not constitute or imply endorsement of the candidate by the party designated, and no candidate for that office shall be deemed the official candidate of any party by virtue of his or her selection in the primary.

(e) Freedom of Political Parties. Nothing in this act shall restrict the right of individuals to join or organize into political parties or in any way restrict the right of private association of political parties. Nothing in this measure shall restrict the parties' right to contribute to, endorse, or otherwise support a candidate for state elective or congressional office. Political parties may establish such procedures as they see fit to endorse or support candidates or otherwise participate in all elections, and they may informally "nominate" candidates for election to voter-nominated offices at a party convention or by whatever lawful mechanism they so choose, other than at state-conducted primary elections. Political parties may also adopt such rules as they see fit for the selection of party officials (including central committee members, presidential electors, and party officers). This may include restricting participation in elections for party officials to those who disclose a party preference for that party at the time of registration.

(f) Presidential Primaries. This act makes no change in current law as it relates to presidential primaries. This act conforms to the ruling of the United States Supreme Court in Washington State Grange v. Washington State Republican Party (2008) 128 S.Ct. 1184. Each political party retains the right either to close its presidential primaries to those voters who disclose their party preference for that party at the time of registration or to open its presidential primary to include those voters who register without disclosing a political party preference.

Third—That Section 5 of Article II thereof is amended to read:

SEC. 5. (a) *A voter-nomination primary election shall be conducted to select the candidates for congressional and state elective offices in California. All voters may vote at a voter-nominated primary election for any candidate for congressional and state elective office without regard to the political party preference disclosed by the candidate or the voter, provided that the voter is otherwise qualified to vote for candidates for the office in question. The*

candidates who are the top two vote-getters at a voter-nominated primary election for a congressional or state elective office shall, regardless of party preference, compete in the ensuing general election.

(b) Except as otherwise provided by Section 6, a candidate for a congressional or state elective office may have his or her political party preference, or lack of political party preference, indicated upon the ballot for the office in the manner provided by statute. A political party or party central committee shall not nominate a candidate for any congressional or state elective office at the voter-nominated primary. This subdivision shall not be interpreted to prohibit a political party or party central committee from endorsing, supporting, or opposing any candidate for a congressional or state elective office. A political party or party central committee shall not have the right to have its preferred candidate participate in the general election for a voter-nominated office other than a candidate who is one of the two highest vote-getters at the primary election, as provided in subdivision (a).

(c) The Legislature shall provide for ~~primary~~ *partisan* elections for ~~partisan offices~~ *presidential candidates, and political party and party central committees*, including an open presidential primary whereby the candidates on the ballot are those found by the Secretary of State to be recognized candidates throughout the nation or throughout California for the office of President of the United States, and those whose names are placed on the ballot by petition, but excluding any candidate who has withdrawn by filing an affidavit of noncandidacy.

~~(b)~~

(d) A political party that participated in a primary election for a partisan office *pursuant to subdivision (c)* has the right to participate in the general election for that office and shall not be denied the ability to place on the general election ballot the candidate who received, at the primary election, the highest vote among that party's candidates.

Fourth—That Section 6 of Article II thereof is amended to read:

SEC. 6. (a) All judicial, school, county, and city offices*, including the Superintendent of Public Instruction,* shall be nonpartisan.

(b) ~~No~~ *A* political party or party central committee ~~may endorse, support, or oppose~~ *shall not nominate* a candidate for nonpartisan office*, and the candidate's party preference shall not be included on the ballot for the nonpartisan office.*

Fifth—This measure shall become operative on January 1, 2011.

PROPOSITION 15

This law proposed by Assembly Bill 583 (Statutes of 2008, Chapter 735) is submitted to the people in accordance with the provisions of Article II, Section 10 of the California Constitution.

This proposed law adds sections to the Elections Code; adds and repeals sections of the Government Code; and adds and repeals sections of the Revenue and Taxation 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

SECTION 1. Chapter 7 (commencing with Section 20600) is added to Division 20 of the Elections Code, to read:

CHAPTER 7. FAIR ELECTIONS FUND

20600. (a) Each lobbying firm, as defined by Section 82038.5 of the Government Code, each lobbyist, as defined by Section 82039 of the Government Code, and each lobbyist employer, as defined by Section 82039.5 of the Government Code, shall pay the Secretary of State a nonrefundable fee of seven hundred dollars ($700) every two years. Twenty-five dollars ($25) of each fee from each lobbyist shall be deposited in the General Fund and used, when appropriated, for the purposes of Article 1 (commencing with Section 86100) of Chapter 6 of Title 9 of the Government Code. The remaining amount of each fee shall be deposited in the Fair Elections Fund established pursuant to Section 91133 of the Government Code. The fees in this section may be paid in even-numbered years when registrations are renewed pursuant to Section 86106 of the Government Code.

(b) The Secretary of State shall biennially adjust the amount of the fees collected pursuant to this section to reflect any increase or decrease in the Consumer Price Index.

SEC. 2. Section 85300 of the Government Code is repealed.

~~85300. No public officer shall expend and no candidate shall accept any public moneys for the purpose of seeking elective office.~~

SEC. 3. Section 86102 of the Government Code is repealed.

~~86102. Each lobbying firm and lobbyist employer required to file a registration statement under this chapter may be charged not more than twenty-five dollars ($25) per year for each lobbyist required to be listed on its registration statement.~~

SEC. 4. Chapter 12 (commencing with Section 91015) is added to Title 9 of the Government Code, to read:

CHAPTER 12. CALIFORNIA FAIR ELECTIONS ACT OF 2008

Article 1. General

91015. This chapter shall be known and may be cited as the California Fair Elections Act of 2008.

91017. The people find and declare all of the following:

EXHIBIT E

Alex Padilla
California Secretary of State

What can we help you with?

Search

No Party Preference Information

Voting in Presidential Primary Elections

Voters who registered to vote without stating a political party preference are known as No Party Preference (NPP) voters. NPP voters were formerly known as "decline-to-state" or “DTS” voters.

For presidential primary elections: NPP voters will receive a “non-partisan” ballot that does not include presidential candidates. A nonpartisan ballot contains only the names of candidates for voter-nominated offices and local nonpartisan offices and measures. However, NPP voters may vote in a political party's partisan election if the political party, by party rule duly noticed to the Secretary of State, authorizes NPP voters to vote in the next presidential primary election. An NPP voter may request the ballot of one of the political parties, if any, that authorizes NPP voters to vote in the presidential primary election.

History Behind California's Primary Election System

Closed Primary System

A "closed" primary system governed California's primary elections until 1996. In a closed primary, only persons who are registered members of a political party may vote the ballot of that political party.

Open Primary System

The provisions of the "closed" primary system were amended by the adoption of Proposition 198, an initiative statute approved by the voters at the March 26, 1996, Primary Election. Proposition 198 changed the closed primary system to what is known as a "blanket" or "open" primary, in which all registered voters may vote for any candidate, regardless of political affiliation and without a declaration of political faith or allegiance. On June 26, 2000, the United States Supreme Court issued a decision in *California Democratic Party, et. al. v. Jones*, stating that California's "open" primary system, established by Proposition 198, was unconstitutional because it violated a political party's First Amendment right of association. Therefore, the Supreme Court overturned Proposition 198.

Modified Closed Primary System for Presidential Elections

California's current "modified" closed primary system for Presidential elections was chaptered on September 29, 2000 and took effect on January 1, 2001. Senate Bill 28 (Ch. 898, Stats. 2000) implemented a "modified" closed primary system that permitted voters who had declined to provide a political party preference (formerly known as "decline to state" voters) to participate in a primary election if authorized by an individual party's rules and duly noticed by the Secretary of State.

Top Two Candidates Open Primary Act and Voter-Nominated Offices

The Top Two Candidates Open Primary Act, which took effect January 1, 2011, requires that all candidates for a voter-nominated office be listed on the same ballot. Previously known as partisan offices, voter-nominated offices are state legislative offices, U.S. congressional offices, and state constitutional offices. Only the two candidates receiving the most votes—regardless of party preference—move on to the general election regardless of vote totals.

Write-in candidates for voter-nominated offices can only run in the primary election. However, a write-in candidate can only move on to the general election if the candidate is one of the top two vote-getters in the primary election.

Additionally, there is no independent nomination process for a general election. California's new open primary system does not apply to candidates running for U.S. President, county central committee, or local offices.

Party-Nominated/Partisan Offices

Under the California Constitution, political parties may formally nominate candidates for party-nominated/partisan offices at the primary election. A candidate so nominated will then represent that party as its official candidate for the office in question at the ensuing general election and the ballot will reflect an official designation to that effect. The top votegetter for each party at the primary election is entitled to participate in the general election. Parties also elect officers of official party committees at a partisan primary.

No voter may vote in the primary election of any political party other than the party he or she has disclosed a preference for upon registering to vote. However, a political party may authorize a person who has declined to disclose a party preference to vote in that party's primary election.

Voter-Nominated Offices

Under the California constitution, political parties are not entitled to formally nominate candidates for voter-nominated offices at the primary election. A candidate nominated for a voter-nominated office at the primary election is the nominee of the people and not the official nominee of any party at the following general election. A candidate for nomination or election to a voter-nominated office shall have his or her party preference, or lack of party preference, reflected on the primary and general election ballot, but the party preference designation is selected solely by the candidate and is shown for the information of the voters only. It does not constitute or imply an endorsement of the candidate by the party designated, or affiliation between the party and candidate, and no candidate nominated by the qualified voters for any voter-nominated office shall be deemed to be the officially nominated candidate of any political party. The parties may list the candidates for voter-nominated offices who have received the official endorsement of the party in the sample ballot.

All voters may vote for any candidate for a voter-nominated office, provided they meet the other qualifications required to vote for that office. The top two votegetters at the primary election advance to the general election for the voter-nominated office, even if both candidates have specified the same party preference designation. No party is entitled to have a candidate with its party preference designation participate in the general election unless such candidate is one of the two highest votegetters at the primary election.

Nonpartisan Offices

Under the California Constitution, political parties are not entitled to nominate candidates for nonpartisan offices at the primary election, and a candidate nominated for a nonpartisan office at the primary election is not the official nominee of any party for the office in question at the ensuing general election. A candidate for nomination or election to a nonpartisan office may not designate his or her party preference, or lack of party preference, on the primary and general election ballot. The top two votegetters at the primary election advance to the general election for the nonpartisan office.

History of Political Parties That Have Adopted Party Rules Regarding No Party Preference Voters (/elections/political-parties/no-party-preference/history-political-parties-have-adopted-party-rules-regarding-no-party-preference-voters/)

EXHIBIT F

Report of Registration as of May 23, 2016
Registration by County

	Eligible	Registered	Democratic	Republican	American Independent	Green
Alameda	1,065,162	833,803	480,475	106,675	15,842	6,438
Percent		**78.28%**	**57.62%**	**12.79%**	**1.90%**	**0.77%**
Alpine	950	717	273	222	29	8
Percent		**75.47%**	**38.08%**	**30.96%**	**4.04%**	**1.12%**
Amador	28,117	21,266	6,625	9,735	880	113
Percent		**75.63%**	**31.15%**	**45.78%**	**4.14%**	**0.53%**
Butte	168,838	124,771	43,269	44,541	4,186	920
Percent		**73.90%**	**34.68%**	**35.70%**	**3.35%**	**0.74%**
Calaveras	36,122	27,532	8,308	11,889	1,217	167
Percent		**76.22%**	**30.18%**	**43.18%**	**4.42%**	**0.61%**
Colusa	12,479	8,019	2,681	3,459	200	19
Percent		**64.26%**	**33.43%**	**43.14%**	**2.49%**	**0.24%**
Contra Costa	740,367	556,570	281,016	127,968	13,949	2,418
Percent		**75.17%**	**50.49%**	**22.99%**	**2.51%**	**0.43%**
Del Norte	18,073	13,585	4,454	4,921	624	86
Percent		**75.17%**	**32.79%**	**36.22%**	**4.59%**	**0.63%**
El Dorado	136,827	109,479	32,659	47,243	4,167	597
Percent		**80.01%**	**29.83%**	**43.15%**	**3.81%**	**0.55%**
Fresno	580,678	414,976	163,039	153,585	10,855	1,183
Percent		**71.46%**	**39.29%**	**37.01%**	**2.62%**	**0.29%**
Glenn	18,440	12,195	3,559	5,382	474	34
Percent		**66.13%**	**29.18%**	**44.13%**	**3.89%**	**0.28%**
Humboldt	105,117	79,037	35,938	19,064	2,496	1,858
Percent		**75.19%**	**45.47%**	**24.12%**	**3.16%**	**2.35%**
Imperial	97,235	63,185	31,299	13,016	1,482	129
Percent		**64.98%**	**49.54%**	**20.60%**	**2.35%**	**0.20%**
Inyo	13,760	9,697	3,050	4,075	402	51
Percent		**70.47%**	**31.45%**	**42.02%**	**4.15%**	**0.53%**
Kern	505,400	340,603	122,260	132,638	11,138	673
Percent		**67.39%**	**35.90%**	**38.94%**	**3.27%**	**0.20%**
Kings	79,835	48,504	16,834	21,737	1,204	80
Percent		**60.76%**	**34.71%**	**44.81%**	**2.48%**	**0.16%**

Report of Registration as of May 23, 2016
Registration by County

	Libertarian	Peace and Freedom	Other	No Party Preference
Alameda	3,931	2,444	6,308	211,690
Percent	**0.47%**	**0.29%**	**0.76%**	**25.39%**
Alpine	5	1	3	176
Percent	**0.70%**	**0.14%**	**0.42%**	**24.55%**
Amador	229	62	42	3,580
Percent	**1.08%**	**0.29%**	**0.20%**	**16.83%**
Butte	1,184	493	1,510	28,668
Percent	**0.95%**	**0.40%**	**1.21%**	**22.98%**
Calaveras	361	97	220	5,273
Percent	**1.31%**	**0.35%**	**0.80%**	**19.15%**
Colusa	45	16	3	1,596
Percent	**0.56%**	**0.20%**	**0.04%**	**19.90%**
Contra Costa	3,172	1,175	1,084	125,788
Percent	**0.57%**	**0.21%**	**0.19%**	**22.60%**
Del Norte	126	68	150	3,156
Percent	**0.93%**	**0.50%**	**1.10%**	**23.23%**
El Dorado	1,222	280	919	22,392
Percent	**1.12%**	**0.26%**	**0.84%**	**20.45%**
Fresno	2,266	1,169	4,367	78,512
Percent	**0.55%**	**0.28%**	**1.05%**	**18.92%**
Glenn	94	44	20	2,588
Percent	**0.77%**	**0.36%**	**0.16%**	**21.22%**
Humboldt	736	328	182	18,435
Percent	**0.93%**	**0.41%**	**0.23%**	**23.32%**
Imperial	286	311	366	16,296
Percent	**0.45%**	**0.49%**	**0.58%**	**25.79%**
Inyo	93	24	51	1,951
Percent	**0.96%**	**0.25%**	**0.53%**	**20.12%**
Kern	2,274	1,091	357	70,172
Percent	**0.67%**	**0.32%**	**0.10%**	**20.60%**
Kings	290	111	131	8,117
Percent	**0.60%**	**0.23%**	**0.27%**	**16.73%**

Report of Registration as of May 23, 2016
Registration by County

	Eligible	Registered	Democratic	Republican	American Independent	Green
Lake	48,604	32,796	13,001	8,979	1,290	310
Percent		**67.48%**	**39.64%**	**27.38%**	**3.93%**	**0.95%**
Lassen	16,785	13,434	2,997	6,681	707	38
Percent		**80.04%**	**22.31%**	**49.73%**	**5.26%**	**0.28%**
Los Angeles	6,199,606	4,909,904	2,542,149	962,807	104,668	18,635
Percent		**79.20%**	**51.78%**	**19.61%**	**2.13%**	**0.38%**
Madera	87,117	54,017	17,897	22,673	1,638	143
Percent		**62.01%**	**33.13%**	**41.97%**	**3.03%**	**0.26%**
Marin	181,022	151,874	85,576	26,459	3,063	1,299
Percent		**83.90%**	**56.35%**	**17.42%**	**2.02%**	**0.86%**
Mariposa	14,962	10,519	3,137	4,711	440	77
Percent		**70.30%**	**29.82%**	**44.79%**	**4.18%**	**0.73%**
Mendocino	63,670	48,935	23,833	10,200	1,627	1,162
Percent		**76.86%**	**48.70%**	**20.84%**	**3.32%**	**2.37%**
Merced	154,443	92,296	41,476	28,635	2,713	320
Percent		**59.76%**	**44.94%**	**31.03%**	**2.94%**	**0.35%**
Modoc	7,386	5,076	1,210	2,575	244	20
Percent		**68.72%**	**23.84%**	**50.73%**	**4.81%**	**0.39%**
Mono	9,424	5,883	2,063	1,974	243	36
Percent		**62.43%**	**35.07%**	**33.55%**	**4.13%**	**0.61%**
Monterey	241,516	174,674	88,026	40,883	4,073	907
Percent		**72.32%**	**50.39%**	**23.41%**	**2.33%**	**0.52%**
Napa	93,331	72,461	34,291	18,334	2,118	591
Percent		**77.64%**	**47.32%**	**25.30%**	**2.92%**	**0.82%**
Nevada	77,440	66,149	24,474	23,286	2,312	870
Percent		**85.42%**	**37.00%**	**35.20%**	**3.50%**	**1.32%**
Orange	2,000,797	1,395,380	467,491	557,789	34,176	3,896
Percent		**69.74%**	**33.50%**	**39.97%**	**2.45%**	**0.28%**
Placer	262,922	210,913	60,319	96,377	5,157	768
Percent		**80.22%**	**28.60%**	**45.70%**	**2.45%**	**0.36%**
Plumas	16,056	11,839	3,663	5,219	585	53
Percent		**73.74%**	**30.94%**	**44.08%**	**4.94%**	**0.45%**

Report of Registration as of May 23, 2016
Registration by County

	Libertarian	Peace and Freedom	Other	No Party Preference
Lake	333	169	45	8,669
Percent	**1.02%**	**0.52%**	**0.14%**	**26.43%**
Lassen	102	39	81	2,789
Percent	**0.76%**	**0.29%**	**0.60%**	**20.76%**
Los Angeles	26,648	31,874	40,892	1,182,231
Percent	**0.54%**	**0.65%**	**0.83%**	**24.08%**
Madera	328	162	209	10,967
Percent	**0.61%**	**0.30%**	**0.39%**	**20.30%**
Marin	797	239	505	33,936
Percent	**0.52%**	**0.16%**	**0.33%**	**22.34%**
Mariposa	99	27	171	1,857
Percent	**0.94%**	**0.26%**	**1.63%**	**17.65%**
Mendocino	423	242	181	11,267
Percent	**0.86%**	**0.49%**	**0.37%**	**23.02%**
Merced	530	273	80	18,269
Percent	**0.57%**	**0.30%**	**0.09%**	**19.79%**
Modoc	42	11	8	966
Percent	**0.83%**	**0.22%**	**0.16%**	**19.03%**
Mono	45	24	5	1,493
Percent	**0.76%**	**0.41%**	**0.08%**	**25.38%**
Monterey	966	538	218	39,063
Percent	**0.55%**	**0.31%**	**0.12%**	**22.36%**
Napa	505	186	425	16,011
Percent	**0.70%**	**0.26%**	**0.59%**	**22.10%**
Nevada	714	187	93	14,213
Percent	**1.08%**	**0.28%**	**0.14%**	**21.49%**
Orange	10,636	3,151	4,121	314,120
Percent	**0.76%**	**0.23%**	**0.30%**	**22.51%**
Placer	2,857	430	771	44,234
Percent	**1.35%**	**0.20%**	**0.37%**	**20.97%**
Plumas	119	35	1	2,164
Percent	**1.01%**	**0.30%**	**0.01%**	**18.28%**

Report of Registration as of May 23, 2016
Registration by County

	Eligible	Registered	Democratic	Republican	American Independent	Green
Riverside	1,429,960	909,922	336,878	346,095	27,466	2,030
Percent		**63.63%**	**37.02%**	**38.04%**	**3.02%**	**0.22%**
Sacramento	984,952	715,975	316,992	209,619	21,071	3,111
Percent		**72.69%**	**44.27%**	**29.28%**	**2.94%**	**0.43%**
San Benito	33,943	25,645	12,153	7,525	721	106
Percent		**75.55%**	**47.39%**	**29.34%**	**2.81%**	**0.41%**
San Bernardino	1,304,484	784,130	303,592	264,149	27,532	2,172
Percent		**60.11%**	**38.72%**	**33.69%**	**3.51%**	**0.28%**
San Diego	2,183,908	1,523,251	561,984	491,843	48,812	5,452
Percent		**69.75%**	**36.89%**	**32.29%**	**3.20%**	**0.36%**
San Francisco	644,082	462,927	267,876	37,097	7,724	4,565
Percent		**71.87%**	**57.87%**	**8.01%**	**1.67%**	**0.99%**
San Joaquin	440,325	309,865	133,259	103,494	7,463	759
Percent		**70.37%**	**43.01%**	**33.40%**	**2.41%**	**0.24%**
San Luis Obispo	207,330	155,801	54,851	60,772	4,432	914
Percent		**75.15%**	**35.21%**	**39.01%**	**2.84%**	**0.59%**
San Mateo	501,875	367,155	191,126	66,364	7,536	1,837
Percent		**73.16%**	**52.06%**	**18.08%**	**2.05%**	**0.50%**
Santa Barbara	289,082	201,865	86,180	58,577	5,076	988
Percent		**69.83%**	**42.69%**	**29.02%**	**2.51%**	**0.49%**
Santa Clara	1,186,947	788,063	370,161	166,599	15,712	2,932
Percent		**66.39%**	**46.97%**	**21.14%**	**1.99%**	**0.37%**
Santa Cruz	189,639	145,809	83,514	23,471	3,030	1,539
Percent		**76.89%**	**57.28%**	**16.10%**	**2.08%**	**1.06%**
Shasta	134,243	96,310	24,635	45,619	3,762	333
Percent		**71.74%**	**25.58%**	**47.37%**	**3.91%**	**0.35%**
Sierra	2,613	2,217	653	922	127	18
Percent		**84.85%**	**29.45%**	**41.59%**	**5.73%**	**0.81%**
Siskiyou	34,648	26,480	8,347	10,340	1,187	178
Percent		**76.43%**	**31.52%**	**39.05%**	**4.48%**	**0.67%**
Solano	288,220	209,339	101,734	50,815	5,980	675
Percent		**72.63%**	**48.60%**	**24.27%**	**2.86%**	**0.32%**

Report of Registration as of May 23, 2016
Registration by County

	Libertarian	Peace and Freedom	Other	No Party Preference
Riverside	5,660	3,057	6,014	182,722
Percent	**0.62%**	**0.34%**	**0.66%**	**20.08%**
Sacramento	5,207	5,092	1,366	153,517
Percent	**0.73%**	**0.71%**	**0.19%**	**21.44%**
San Benito	149	63	33	4,895
Percent	**0.58%**	**0.25%**	**0.13%**	**19.09%**
San Bernardino	4,998	3,335	2,960	175,392
Percent	**0.64%**	**0.43%**	**0.38%**	**22.37%**
San Diego	12,034	3,827	4,284	395,015
Percent	**0.79%**	**0.25%**	**0.28%**	**25.93%**
San Francisco	2,602	1,303	1,086	140,674
Percent	**0.56%**	**0.28%**	**0.23%**	**30.39%**
San Joaquin	1,691	991	1,114	61,094
Percent	**0.55%**	**0.32%**	**0.36%**	**19.72%**
San Luis Obispo	1,252	330	1,707	31,543
Percent	**0.80%**	**0.21%**	**1.10%**	**20.25%**
San Mateo	1,862	782	818	96,830
Percent	**0.51%**	**0.21%**	**0.22%**	**26.37%**
Santa Barbara	1,342	469	1,463	47,770
Percent	**0.66%**	**0.23%**	**0.72%**	**23.66%**
Santa Clara	4,635	1,805	1,236	224,983
Percent	**0.59%**	**0.23%**	**0.16%**	**28.55%**
Santa Cruz	1,140	403	782	31,930
Percent	**0.78%**	**0.28%**	**0.54%**	**21.90%**
Shasta	913	317	311	20,420
Percent	**0.95%**	**0.33%**	**0.32%**	**21.20%**
Sierra	29	3	42	423
Percent	**1.31%**	**0.14%**	**1.89%**	**19.08%**
Siskiyou	286	106	46	5,990
Percent	**1.08%**	**0.40%**	**0.17%**	**22.62%**
Solano	1,276	576	966	47,317
Percent	**0.61%**	**0.28%**	**0.46%**	**22.60%**

Report of Registration as of May 23, 2016
Registration by County

	Eligible	Registered	Democratic	Republican	American Independent	Green
Sonoma	349,571	253,860	137,093	52,200	5,886	2,689
Percent		**72.62%**	**54.00%**	**20.56%**	**2.32%**	**1.06%**
Stanislaus	335,349	219,464	83,168	87,093	6,344	499
Percent		**65.44%**	**37.90%**	**39.68%**	**2.89%**	**0.23%**
Sutter	60,702	42,351	13,556	18,108	1,401	106
Percent		**69.77%**	**32.01%**	**42.76%**	**3.31%**	**0.25%**
Tehama	43,656	30,724	8,566	13,682	1,512	105
Percent		**70.38%**	**27.88%**	**44.53%**	**4.92%**	**0.34%**
Trinity	11,321	7,701	2,629	2,540	393	96
Percent		**68.02%**	**34.14%**	**32.98%**	**5.10%**	**1.25%**
Tulare	259,884	142,426	45,495	62,936	4,557	357
Percent		**54.80%**	**31.94%**	**44.19%**	**3.20%**	**0.25%**
Tuolumne	41,143	29,472	9,439	12,743	1,185	158
Percent		**71.63%**	**32.03%**	**43.24%**	**4.02%**	**0.54%**
Ventura	548,937	413,045	169,689	138,605	9,848	1,565
Percent		**75.24%**	**41.08%**	**33.56%**	**2.38%**	**0.38%**
Yolo	146,291	100,163	49,234	22,382	2,656	669
Percent		**68.47%**	**49.15%**	**22.35%**	**2.65%**	**0.67%**
Yuba	48,203	31,004	8,984	11,449	1,561	116
Percent		**64.32%**	**28.98%**	**36.93%**	**5.03%**	**0.37%**
State Total	**24,783,789**	**17,915,053**	**8,029,130**	**4,888,771**	**457,173**	**77,868**
Percent		**72.29%**	**44.82%**	**27.29%**	**2.55%**	**0.43%**

Report of Registration as of May 23, 2016
Registration by County

	Libertarian	Peace and Freedom	Other	No Party Preference
Sonoma	1,782	627	961	52,622
Percent	**0.70%**	**0.25%**	**0.38%**	**20.73%**
Stanislaus	1,327	670	2,403	37,960
Percent	**0.60%**	**0.31%**	**1.09%**	**17.30%**
Sutter	299	151	793	7,937
Percent	**0.71%**	**0.36%**	**1.87%**	**18.74%**
Tehama	285	96	90	6,388
Percent	**0.93%**	**0.31%**	**0.29%**	**20.79%**
Trinity	85	29	106	1,823
Percent	**1.10%**	**0.38%**	**1.38%**	**23.67%**
Tulare	876	414	185	27,606
Percent	**0.62%**	**0.29%**	**0.13%**	**19.38%**
Tuolumne	257	86	52	5,552
Percent	**0.87%**	**0.29%**	**0.18%**	**18.84%**
Ventura	2,780	949	5,066	84,543
Percent	**0.67%**	**0.23%**	**1.23%**	**20.47%**
Yolo	675	379	464	23,704
Percent	**0.67%**	**0.38%**	**0.46%**	**23.67%**
Yuba	289	165	81	8,359
Percent	**0.93%**	**0.53%**	**0.26%**	**26.96%**
State Total	**115,189**	**71,326**	**97,948**	**4,177,648**
Percent	**0.64%**	**0.40%**	**0.55%**	**23.32%**

EXHIBIT G

Alex Padilla
California Secretary of State

What can we help you with?

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Qualified Political Parties

American Independent Party

Markham Robinson, *State Chairperson*
476 Deodara Street
Vacaville, CA 95688-2637
(707) 359-4884
markyavelli@gmail.com (mailto:markyavelli@gmail.com)
www.aipca.org (http://www.aipca.org)

Democratic Party

Rusty Hicks, *Chair*
1830 9th Street
Sacramento, CA 95811
(916) 442-5707
info@cadem.org (mailto:info@cadem.org)
www.cadem.org (http://www.cadem.org/)

Green Party

Jared Laiti, *Liaison*
515 18th Street #3
Sacramento CA 95811-1026
(916) 549-6788
liaison@cagreens.org (mailto:liaison@cagreens.org)
www.cagreens.org (http://www.cagreens.org)

Libertarian Party

Honor "Mimi" Robson, *State Chairperson*
770 L Street, Suite 950
Sacramento, CA 95814-3361
(916) 446-1776
office@ca.lp.org (mailto:office@ca.lp.org)
www.ca.lp.org (http://www.ca.lp.org)

Peace and Freedom Party

John C. Reiger, *State Chairperson*
5301 Harte Way
Sacramento, CA 95822
(916) 456-4595
reigers@earthlink.net (mailto:reigers@earthlink.net)

www.peaceandfreedom.org (http://www.peaceandfreedom.org)

Republican Party

Jessica Patterson, *State Chairperson*
1001 K Street, 4th Floor
Sacramento, CA 95814
(916) 448-9496
info@cagop.org (mailto:info@cagop.org)
www.cagop.org (http://www.cagop.org)

EXHIBIT H

Guest editorial: When voting rights go right

May 27, 2016 in Editorials, Featured, Guest Editorial, Opinion 0

Alex Padilla

Alex Padilla

If there's one thing that every American should agree with, it's this: Voting is the fundamental right in our democracy, the one that makes all others possible.

The right to choose our representatives is why patriots dumped tea into Boston Harbor, why women marched for the 19th Amendment, and why 51 years ago people of all races joined together to win the passage of the Voting Rights Act.

But one of the most insidious ideas in the 2016 election is that voting rights are negotiable. More than 20 states have enacted voting restrictions that could prevent many Americans

from exercising their fundamental right to vote this November.

Alex Padilla

We saw the logical outcome of these laws last month in Arizona, when local election officials closed 70 percent of polling locations in Maricopa County. We will never know how many people didn't vote that day, frustrated by five-hour lines and overwhelmed poll workers.

The reason given in Arizona was "cost-cutting," but it wouldn't have happened if the Supreme Court hadn't done some cutting if its own—in a 2013 decision that shredded the protections in the Voting Rights Act. Before that decision, a place like Maricopa County with a history of disenfranchising people of color would have had to petition the U.S. Department of Justice before closing polling locations. But today, states with a long history of racial discrimination are free to change voting rules to deprive people of their most sacred right in our democracy.

If Arizona is a story of when voting rights go wrong, California wants to be an example of when voting rights go right.

Our voter registration has surged leading up to the June 7 primary, driven by hotly contested presidential races for both Democrats and Republicans. As the state's top elections official, I asked the Legislature and Governor Jerry Brown for emergency funding to ensure local elections officials could hire and staff polling locations and process additional ballots.

Unusual in this fractured political climate, Democrats and Republicans in the Legislature voted unanimously to approve the funding, and Governor Brown signed AB 120. The law provides an additional $16 million to all 58 California counties to help cover costs for the June 7 presidential primary as well as the verification of ballot initiative signatures for the November general election. The money will allow the Secretary of State's office to hire more phone interpreters for the voter hotline and conducting polling place observations in all 58 California counties. Access to information about voting is now available in 10 languages.

California Democrats and Republicans are working together to expand access to voting. There's no excuse for the partisan divide in our country around voting rights. But the Supreme Court's decision to gut the Voting Rights Act has given free rein to those who want

to try to cling to power by suppressing voter turnout. Former Republican Senator Jim DeMint recently admitted that voter ID laws help elect “more conservative candidates.”

History shows that voter suppression is doomed to fail. We want as many people of all kinds to vote, regardless of their political persuasion. That’s the path to true democracy, and California is leading the way.

If you live in California, make sure your registration is up-to-date by visiting RegisterToVote.cadem.org or RegisterToVote.Ca.Gov before the May 23 registration deadline.

—Alex Padilla is California’s Secretary of State.

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EXHIBIT I

NEWS RELEASE
CALIFORNIA SECRETARY OF STATE **ALEX PADILLA**

AP16:070

FOR IMMEDIATE RELEASE
May 27, 2016
CONTACT:
Sam Mahood (916) 653-6575

Tips for No Party Preference Voters

SACRAMENTO – Secretary of State Alex Padilla has provided the following tips for voters registered with no party preference planning to vote in the June 7, 2016 Presidential Primary.

"The June 7, 2016 Presidential Primary is fast approaching, but voters registered with no party preference still have time to request a partisan ballot with presidential candidates," Secretary of State Alex Padilla said. "There is still time for voters with no party preference to request a new ballot—even if they have already received a ballot in the mail."

The following parties allow no party preference voters to cast a "crossover" ballot in their presidential primary:
Democratic Party
American Independent Party
Libertarian Party

The following Q&A provides answers to frequently asked questions about options for voters with no party preference.

Q: I am a voter with no party preference, and I vote at the polls. How do I request a crossover ballot?

When you check in at the polls on Election Day, you can ask the pollworker for either a Democratic Party, American Independent Party, or Libertarian Party ballot.

Q: I am a voter with no party preference, and I received a vote-by-mail ballot with no presidential candidates. What can I do to request a ballot with presidential candidates?

Contact your county elections office no later than May 31 to request a vote-by-mail ballot with presidential candidates from the Democratic Party, American Independent Party, or Libertarian Party. **Click Here for County Elections Contact Information**; OR

Bring your vote-by-mail ballot to an early voting location or the polls on Election Day and exchange it for a ballot with presidential candidates from the Democratic Party, American Independent Party, or Libertarian Party.

NOTE: If you have lost your original vote-by-mail ballot, you will have to vote a provisional ballot at the polls—your vote will still be counted. More information on provisional ballots can be found here: http://www.sos.ca.gov/elections/voting-resources/provisional-voting/

Click here for a list of early voting and ballot drop-off locations

Click here to lookup your polling place for the June 7, 2016 Presidential Primary

Click here for California's Voter Bill of Rights

Q: Can a voter with no party preference cast a ballot for Republican Party, Green Party, or Peace and Freedom Party presidential candidates?

No. The Republican Party, Green Party, or Peace and Freedom Party are holding closed presidential primaries. In a closed primary, only voters registered with the party may vote that party's presidential ballot. The deadline for voters to re-register and change parties was May 23, 2016.

Q: I am a vote-by-mail no party preference voter, why did I receive a ballot without presidential candidates?

Voters with no party preference who vote by mail were sent a post-card from their county elections office asking if the voter would like to receive a ballot with presidential candidates from the Democratic Party, American Independent Party, or Libertarian Party. Voters who did not return this post card will receive a non-partisan ballot without presidential candidates.

###

EXHIBIT J

NEWS

CA120: Confusion lurks in the California primary

BY ***PAUL MITCHELL*** POSTED 04.25.2016

In recent years, California has seen two major shifts in its voter file.

The largest has been the rise in the number of Permanent Absentee Voters, or PAVs. Once limited to the older and more conservative portion of the electorate, absentee voting is quickly becoming the preferred voting method of voters from all demographics. A massive two-thirds of the most recent voter surge (http://capitolweekly.net/ca120-voter-surge-now-california/) signed up to get their ballots in the mail.

The second major shift is the increase in "No Party Preference," or NPP voters, who are primarily young and Latino voters who would traditionally be a part of the Democratic coalition (http://capitolweekly.net/voter-gop-dems-rise-registration/). In California,

LURKS-PRIMARY-CALIFORNIA/')

these voters can register free of partisan labels, yet still vote for all the same Democratic and Republican candidates as everyone else.

> *The challenge for many voters, perhaps tens of thousands of them, will come when they open their absentee ballot the weekend before the election, excited about voting, and only then realize that they have the wrong ballot.*

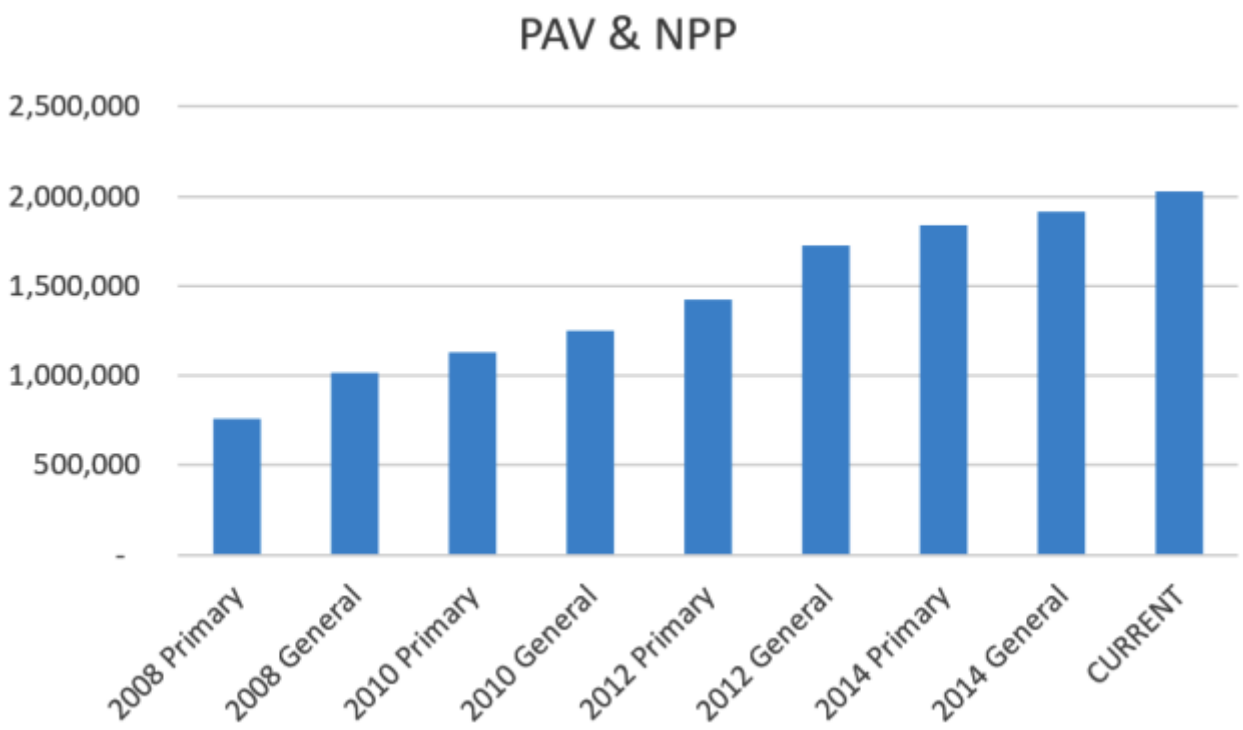
Until now.

As we enter the June primary, we have an electorate that has been seen in polling to be more energized and with a desire to vote more commonly in general elections. The last time we had anything close to this kind of engagement was during the 2008 presidential primary.

During the intervening eight years since that primary contest, we have seen a 35% growth in NPP registrations and an 88% spike in the number of PAVs. In total, the population of non-partisan voters who get their ballots by mail has nearly tripled.

A recent CA120 survey of these NPP and PAV voters reported findings that should create great concerns for election administrators and political campaigns.

The study found that 88% of these voters are interested in voting in the upcoming election. Of those voters, two-thirds are interested in voting in the Democratic primary, while more than 17% are planning on re-registering to vote Republican.



As an Independent voter, you are allowed to vote in the Democratic contest, but to vote in the Republican contest you must re-register. Are you planning to:	
Vote in the Democratic Primary	66.9%
Re-Register Republican to vote in Republican Primary	17.6%
Not vote in either of the two major party Presidential Primaries	15.4%
N=988 Responses	

One challenge heading into June is that these voters have grown accustomed to seeing all candidates on their ballot with the new open primary. While insiders might understand the subtleties of the Republican and Democratic presidential primaries, our past experience shows that the average voter has not done well adapting (http://capitolweekly.net/lopez-bocanegra-battle-numbers-conspiracy-ballot-order/) to seemingly simple changes in election procedures.

Republican presidential campaigns are already working aggressively to target these voters for re-registration so they can vote in their primary. The CA120 survey suggests that as many as 725,000 voters might be interested in making that switch. But since Jan. 1, only 34,000 have done so. These voters have until May 23 to change their registration and get a Republican ballot.

On the Democratic side, things are seemingly easier, but that might not mean that things will go smoothly.

Over four million postcards like this one (https://www.lavote.net/documents/election_info/06072016_VBM-App.pdf) were sent by county registrars to NPP and PAV voters giving them an option to request what officials call a "crossover" ballot, and these must be done by written form. (Some counties appear to be allowing email applications, however the secretary of state's office says these are disallowed (http://elections.cdn.sos.ca.gov/ccrov/pdf/2016/april/16118jl.pdf)).

Yet, according to the survey, it appears the vast majority of these voters who intend to vote in the Democratic primary are still not clued in to how the process works.

Which statement best explains how independent voters can vote in the Democratic Presidential Primary?

An independent voter must request the Democratic ballot from the County	42.7%
Democratic candidates will be on the ballot without taking any extra steps.	37.1%
I am not sure	20.2%

N=668 – includes only respondents who selected "Vote in the Democratic Primary" in prior question.

And this need to request the Democratic ballot is not just a fact missed by low-information voters. We broke out voters who were in the highest turnout bracket, and had voted in both the 2008 and 2012 presidential primaries, and even among those, only 40% could correctly identify the process for getting a partisan crossover ballot.

Without requesting a Democratic ballot in time, these voters are going to be mailed a non-partisan ballot with no presidential section at all. This could be a recipe for chaos as NPP voters, eligible and interested in voting in the primary, start looking through their ballots and find no Bernie Sanders or Hillary Clinton.

How big of a problem could this be?

If this election was more like 2008 or 2012, with mediocre interest among most independent voters, the number of absentees needing a partisan ballot would be relatively low. During those election cycles, 40% of NPP voters who turned out had crossed over to participate in the partisan primary. Without any higher participation this year, that would be at least 400,000 voters statewide needing to get a partisan ballot. If turnout is significantly higher, as many are expecting, this number could skyrocket to a million or more.

A voter who wants to stay NPP and vote in the Democratic Primary would have to print out and mail in a request for a partisan ballot by May 31.

For voters who intend to participate in the Democratic or Republican presidential primaries — and who get a June ballot without the presidential candidates on them — there are remedies.

Voters who are interested in voting Republican and are willing to declare a party affiliation to do so, can change party registration up until May 23. If they establish that they are PAV, they would get a new replacement ballot in the mail automatically.

An NPP could also re-register Democratic by that time and would also automatically receive a ballot with the presidential candidates on it.

A voter who wants to stay NPP and vote in the Democratic Primary would have to print out and mail in a request for a partisan ballot by May 31. This request would invalidate the ballot they currently have, put them in a waiting game to get their replacement, and then have a rush to mail it back postmarked by Election Day.

Even state lawmakers should expect the conspiracy theorists to start flinging accusations at them for the confusion.

The other option is for the voter to go to the polls and vote a provisional Democratic ballot. The provisional ballot would count, provided that the voter has not already completed and mailed in their non-partisan ballot.

County registrars, already slammed with the June Primary, an expected surge in turnout and even signature verification for the November ballot measures, could find themselves inundated with angry and confused voters asking where their presidential candidates are.

Even state lawmakers should expect the conspiracy theorists to start flinging accusations at them for the confusion.

And the challenge for many voters, perhaps tens of thousands of them, will come when they open their absentee ballot the weekend before the election, excited about voting, and only then realize that they have the wrong ballot. And for many of them, a trip to the polling location on election day won't be an easy option.

In the coming days we will begin tracking how many crossover applications and re-registrations to the Republican Party have been received in advance of the primary.

One preliminary count from 10 days ago showed that out of nearly 400,000 voters in LA County, 3,300 had registered Republican and 25,000 had requested crossover Democratic ballots. Yet, our survey suggests that 55,000 of these voters would be interested in re-registering Republican and another 200,000 are interested in voting in the Democratic contest.

But with the most of the mail-in ballots being prepared by counties last weekend, and deadlines for re-registration and crossover application looming, we have to wonder how many will fail to realize it in time.

—

Ed's Note: Paul Mitchell, a regular contributor to Capitol Weekly, is the creator of the CA120 column, which explores 2016 election issues in California. He is vice president of Political Data Inc., and owner of Redistricting Partners, a bipartisan political strategy and research company.

I registered from NPP to Democrat on March 27 (just before the March 31 deadline for voting in the June 7, 2016 Presidential primary). At the same time I requested to vote-by-mail. On-line with the CA voter registration it shows that I am now indeed registered as a Democrat. Here is the problem, I just received my LA County vote-by-mail ballot and it is a NPP ballot. So what are my options. I have been on hold for an hour on the call in number. I also sent an email to the LA County Voter Registrar, good luck with that. I'm feeling the Burn.

2 ^ | v • Share ›

niftyrosa1 ➚ Quietman • 3 years ago

PROVISIONAL BALLOTS MAY NOT BE COUNTED. ASK FOR A CROSSOVER BALLOT.

2 ^ | v • Share ›

Lyme Stats ➚ Quietman • 3 years ago

You need to go into the registration office. Anyone who registers as NPP must also register for a Crossover Ballot (for the Democrat Ballot). Otherwise you will not get to vote for president. The cut off time is May 23 so you have time to go into the registration office. This is a great video to help:

1 ^ | v • Share ›

Quietman • 3 years ago

I am registered as a Democrat. The problem is that LA County sent me a NPP ballot and I have no confidence that they are capable or motivated to correct the issue!

1 ^ | v • Share ›

Lyme Stats • 3 years ago

The counties are training poll workers incorrectly. Please follow the instructions of this video if you want your vote to count!

1 ^ | v • Share ›

Richard Winger • 3 years ago

This is a useful and good article, but it would be better if it didn't refer to California as having an open primary. "Open primary" has been defined for over 100 years as a system in which, on primary day, any voter can choose any party's primary ballot...but each party has its own nominees and its own primary ballot.

By contrast, in California (except for president) there are no party nominees and no party ballots. We have a top-two system, along with Washington state. 19 other states have open primaries. It is not good writing to use the same term to refer to two different things.

1 ^ | v • Share ›

Glabella Philtrum • 3 years ago

California voters, you need to get this handled THIS WEEK as the deadline to reregister or change party is May 23rd.

^ | v • Share ›

Vince Marmolejo • 3 years ago

Excellent blog post - I was fascinated by
the insight - Does anyone know where I might acquire a blank MO DWC
WC-G-11 example to fill in ?

^ | v • Share ›

niftyrosa1 ➚ Vince Marmolejo • 3 years ago

PROVISIONAL BALLOTS MAY NOT BE COUNTED. ASK FOR A CROSSOVER BALLOT,

^ | v • Share ›

alwaysthink ➚ Vince Marmolejo • 3 years ago

CA Sec of State office, just use google

^ | v • Share ›

Sierra Salin • 3 years ago

This article would be much clearer if it stated at the beginning that this is only an isue for folks which are voting by mail. Anyone planning to vote in person need only ask for a provisional ballot. Also, lots of folks voting by mail, can easily go to their polling place and exchange the mail in for a provisional. why not start with clear information which is easy to find?

^ | v 2 • Share ›

Lyme Stats ➚ Sierra Salin • 3 years ago

This isn't true two different recently trained poll workers have been trying to get the word out online that the counties are training the poll workers to NOT give out the right ballots. Everyone should vote early - here is a great video on how to do it:

2 ^ | v • Share ›

niftyrosa1 ➚ Sierra Salin • 3 years ago

PROVISIONAL BALLOTS MAY NOT BE COUNTED. ASK FOR A CROSSOVER BALLOT

1 ^ | v • Share ›

shaun h ➚ Sierra Salin • 3 years ago

Provisional ballots are not always counted.

^ | v • Share ›

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Capitol Weekly Retweeted

Scott Lay
@scottlay

Hi, @apple. Love your products. As you know since you're here in California, we speak some Spanglish, can we eliminate the autocorrect of "guapo" to "guano"? I almost told a new bride that her now-husband looked "¡Muy guano!" He really looked handsome and not like bat shit.

4h

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Dan Morain
@DanielMorain

WhatMatters today: A look at who's homeless and why, family-planning funding in the time of Trump, Tom Steyer takes his shot, and the make up of the federal judiciary: calmatters.org/newsletter/a-l… h/t @k_cimini @SarahVarney4 @FromBenC @amprog

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Attorneys for Alex Padilla, California Secretary of State and the State of California

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN BERNARDINO

CIVIL DIVISION

JIM BOYDSTON; STEVEN FRAKER; DANIEL HOWLE; JOSEPHINE PIARULLI; JEFF MARSTON; LINDSAY VUREK; and INDEPENDENT VOTER PROJECT, a non-profit corporation, Plaintiffs and Petitioners, **v.** **ALEX PADILLA, in his official capacity as California Secretary of State; STATE OF CALIFORNIA, and DOES 1 through 1,000,** Defendants-Respondents.	Case No. CIVDS1921480 **RESPONSES OF DEFENDANT-RESPONDENT ALEX PADILLA, CALIFORNIA SECRETARY OF STATE, AND THE STATE OF CALIFORNIA TO FORM INTERROGATORIES** Date: October 1, 2019 Dept: S32 Judge: The Honorable Wilfred J. Schneider, Jr. Trial Date: Not Set Action Filed: July 23, 3019

PROPOUNDING PARTY: STEVEN FRAKER

RESPONDING PARTY: ALEX PADILLA, in his official capacity as California Secretary of State, on behalf of himself and erroneously-named co-defendant-respondent STATE OF CALIFORNIA

SET NUMBER: ONE

Defendant-Respondent Alex Padilla, California Secretary of State, on behalf of himself and erroneously named co-defendant-respondent State of California (the Secretary) by and through their attorneys of record, hereby object and respond to Plaintiff-Petitioner Steven Fraker's First Set of Form Interrogatories directed separately to the Secretary of State and the State of California, as follows:

PRELIMINARY STATEMENT

The Secretary has not yet completed his investigation of the facts relating to this case and has not completed its preparation for the writ hearing in this matter. All of the responses contained herein are based solely upon information and documents that are presently available to and specifically known by the Secretary. It is anticipated that further investigation, legal research, or analysis may supply additional facts and lead to additions, changes, and variations from the responses herein. The Secretary reserves the right to supplement, clarify, revise, or correct any or all of the responses and objections herein, and to assert additional objections or privileges, in one or more subsequent supplemental response(s). The responses herein are made in a good faith effort to respond to the interrogatories propounded.

The Secretary expressly reserves the right to assert any and all objections as to the admissibility of such responses into evidence in this action, or in any other proceedings, on any and all grounds including, but not limited to, competency, relevancy, materiality, and privilege. Further, the Secretary responds to the Form Interrogatories without in any way implying that the Form Interrogatories and responses to the Form Interrogatories are relevant or material to the subject matter of this action are relevant or material to the subject matter of this action or that the Secretary admits the existence of any facts set forth or assumed by such Form Interrogatory.

GENERAL OBJECTIONS

1. The Secretary objects to each and every Form Interrogatory to the extent it calls for legal conclusions.

2. The Secretary objects to each and every Form Interrogatory on the ground that it is not applicable to this case under Code of Civil Procedure section 2033.710 because the subject

matter of this action is not "based on personal injury, property damage, wrongful death, unlawful detainer, breach of contract, family law or fraud."

3. The Secretary objects to each and every Form Interrogatory to the extent it seeks to impose a burden other than or beyond that provided by the California Rules of Civil Procedure or other laws or rules governing practice in this Court.

4. The Secretary will make reasonable efforts to respond to each and every Form Interrogatory, subject to the foregoing objections and any specific objections, as the Secretary understands and interprets each Form Interrogatory. If the Secretary's interpretation of any Form Interrogatory is different from that of the plaintiffs, the Secretary reserve the right to supplement its objections and responses.

5. The State of California acts only through its officers and entities, and not all such officers and entities are parties to this matter. (See *People ex rel. Lockyer v. Superior Court* (2004) 122 Cal.App.4th 1060, 1078 [various state agencies not parties to litigation brought by "the People.") The Secretary of State does not maintain custody or control over documents possessed by other officers or entities. (See *Id.* at pp. 1078-1079 ["People" do not have custody or control over documents held by non-party state agencies].) In addition, a discovery request seeking information from every state officer and entity would be oppressive. (*West Pico Furniture Co. of Los Angeles v. Sup. Ct.* (1961) 56 Cal.2d 407 [discovery requests are oppressive when "the ultimate effect of the burden is incommensurate with the result sought"]; *People ex rel. Harris v. Sarpas* (2014) 225 Cal.App.4th 1539, 1552 (same).)

RESPONSES AND OBJECTIONS TO FORM INTERROGATORIES

1. The Secretary objects to the definition of the term "INCIDENT," independently and as applied to the Complaint and Petition in this action as vague and ambiguous and overly broad, and to the extent it refers to unspecified and undated "circumstances and events surrounding the alleged accident, injury, or other occurrence or breach of contract giving rise to this action or proceeding." The term "INCIDENT" has no applicability to the subject matter of this action, in which plaintiffs assert state and federal constitutional challenges to California's current system of

conducting presidential primary elections. (See *Woolridge v. Mounts* (1962) 199 Cal.App.2d 620, 626-627 [irrelevant form interrogatories constitute an "abuse of the discovery procedure"].)

2. The Secretary objects to each and every form interrogatory to the extent that it calls for his legal reasoning or theories rather than any factual evidence or information regarding his defenses in this case. "A party's contention may be the subject of discovery, but not the legal reasoning or theory behind the contention." (*Sav-On Drugs, Inc. v. Sup. Ct.* (1975) 15 Cal.3d 1, 5 [citing *Burke v. Sup. Ct.* (1969) 71 Cal.2d 276, 284].) The general denial and affirmative defenses asserted in the Secretary's answer to the complaint involve questions of law to be decided by the court rather than factual issues.

RESPONSES AND OBJECTIONS TO FORM INTERROGATORIES

Subject to and without waiving any of the foregoing objections, the Secretary responds and objects to Plaintiff's Interrogatories as follows:

Form Interrogatory No. 1.1:

Amie L. Medley
Deputy Attorney General
300 S. Spring Street, Suite 1702
Los Angeles, CA 90031
(213) 269-6226

Steven J. Reyes
Chief Counsel, California Secretary of State
To be contacted through counsel

Form Interrogatory No. 15.1:

The Secretary objects to this interrogatory in that it calls for his legal reasoning or theories rather than any factual evidence or information regarding his defenses in this case. "A party's contention may be the subject of discovery, but not the legal reasoning or theory behind the contention." (*Sav-On Drugs, Inc. v. Sup. Ct.* (1975) 15 Cal.3d 1, 5 [citing *Burke v. Sup. Ct.* (1969) 71 Cal.2d 276, 284].) The general denial and affirmative defenses asserted in the Secretary's answer to the complaint involve questions of law to be decided by the court rather than factual issues.

First Affirmative Defense

Interrogatory 15.1 requires a party to state all facts upon which its affirmative defenses are based. The Secretary's first affirmative defense is based on statutory and case law as applied to the facts alleged in the Petition and Complaint. There are no supporting facts to assert at this time.

Second Affirmative Defense

This case, specifically the fourth cause of action for the unconstitutional appropriation of public funds for private purposes, involves election processes executed by county clerks throughout California. In particular, counties bear the costs of conducting primary elections. (Elec. Code, § 13001 [except for elections called by cities, county treasuries pay expenses authorized and necessarily incurred in preparation for, and conduct of, elections under Elections Code]. Thus, the rights and responsibilities of the counties would be substantially affected if the Court were to grant Plaintiffs' requested relief with regard to the fourth cause of action.

Third Affirmative Defense

Interrogatory 15.1 requires a party to state all facts upon which its affirmative defenses are based. The Secretary's third affirmative defense is based on statutory and case law as applied to the facts alleged in the Petition and Complaint. Thus, there are no supporting facts to assert at this time.

Fourth Affirmative Defense

Interrogatory 15.1 requires a party to state all facts upon which its affirmative defenses are based. The Secretary's fourth affirmative defense is based on statutory and case law as applied to the facts alleged in the Petition and Complaint. Thus, there are no supporting facts to assert at this time.

Fifth Affirmative Defense

Interrogatory 15.1 requires a party to state all facts upon which its affirmative defenses are based. The Secretary's fifth affirmative defense is based on applicable statutory and case law as applied to the facts alleged in the Petition and Complaint. Thus, there are no supporting facts to assert at this time.

Sixth Affirmative Defense

Interrogatory 15.1 requires a party to state all facts upon which its affirmative defenses are based. The Secretary's sixth affirmative defense is based on applicable statutory and case law as applied to the facts alleged in the Petition and Complaint. Thus, there are no supporting facts to assert at this time.

Seventh Affirmative Defense

The seventh affirmative defense is stated to preserve the Secretary's right to assert additional affirmative defenses as the case develops.

Dated: October 1, 2019

Respectfully Submitted,

XAVIER BECERRA
Attorney General of California
MARK R. BECKINGTON
Supervising Deputy Attorney General

AMIE L. MEDLEY
Deputy Attorney General
Attorneys for Alex Padilla, California Secretary of State and State of California

DECLARATION OF SERVICE BY U.S. MAIL

Case Name: **Boydston, Jim, et al. v. Alex Padilla, et al**
Case No.: **CIVDS1921480**

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar, at which member's direction this service is made. I am 18 years of age or older and not a party to this matter. I am familiar with the business practice at the Office of the Attorney General for collection and processing of correspondence for mailing with the United States Postal Service. In accordance with that practice, correspondence placed in the internal mail collection system at the Office of the Attorney General is deposited with the United States Postal Service with postage thereon fully prepaid that same day in the ordinary course of business.

On **October 1, 2019,** I served the attached **RESPONSES OF DEFENDANT-RESPONDENT ALEX PADILLA, CALIFORNIA SECRETARY OF STATE, AND THE STATE OF CALIFORNIA TO FORM INTERROGATORIES** by placing a true copy thereof enclosed in a sealed envelope in the internal mail collection system at the Office of the Attorney General at 300 South Spring Street, Suite 1702, Los Angeles, CA 90013, addressed as follows:

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I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on **October 1, 2019,** at Los Angeles, California.

Cecilia Apodaca
Declarant

Signature

SA2019103952 53780896.docx

EXHIBIT L

POLITICS

For independent voters, California lawmakers seek to end ballot confusion

Voters in Sherman Oaks line up at their polling place in a neighbor's garage to cast their ballots in the California presidential primary on June 6, 2016. (Al Seib / Los Angeles Times)

By JOHN MYERS
SACRAMENTO BUREAU CHIEF

APRIL 2, 2019
10:55 AM

Reporting from Sacramento — In the days leading up to California's primary three years ago, the complaints from unaffiliated independent voters started pouring in. They were promised they could vote in the closely watched Democratic race for the White House, but were handed a ballot without any presidential candidates.

That shouldn't happen again next year, if a new proposal making its way through the Legislature has its intended effect.

"There seemed to be a misunderstanding," Assemblywoman Lorena Gonzalez (D-San Diego) said of what happened in 2016. "So we know what's coming."

You aren't an independent voter in California if you checked this box »

The confusion stems from state election law that differs from the rules laid out by the Democratic National Committee, which allows unaffiliated independent voters in California to participate in that party's presidential primary. To do so, those voters must first request in advance a special ballot that lists Democratic candidates — a different process from state elections, where candidates from all parties are listed on all ballots.

Gonzalez's proposal, Assembly Bill 681, would require county elections officials to deliver three separate notices to voters in the three months before the presidential primary next March. Each notice would clearly state the voter's party affiliation on record, the presidential ballot that would be mailed to the voter and instructions on how to change one's affiliation if desired.

The notifications would go to voters registered with parties, but were inspired by the many reports of independent "no party preference" voters who failed to request special ballots in time to vote in the June 2016 primary between Democrats Hillary Clinton and Vermont Sen. Bernie Sanders. Clinton went on to a resounding victory. A group of Sanders supporters, angered by what they saw as confusing rules on how unaffiliated voters could vote in the Democratic primary, tried to convince a federal judge that spring to allow voter registration all the way until election day. The judge ultimately rejected the request.

Gonzalez said the only way to avoid a repeat in next year's primary is to ensure voters know that they themselves — and not elections officials — have to be the ones to take action.

"We just want to make sure people understand that they have to make an affirmative step in order to vote in a presidential primary if they're not registered as a partisan voter," she said.

Unaffiliated voters have not been allowed to vote in recent Republican presidential primaries, a decision each party makes for itself.

AB 681 might also solve another common mistake: voters who don't realize until election day that they are registered as members of the American Independent Party. A Times investigation in 2016 found large numbers of Californians who believed they were registered as unaffiliated voters but had actually registered with the obscure, conservative party — mistakenly choosing it on the voter registration form because of the word "independent" in its name. By offering repeated communication about registration status, the bill would give some of those voters time to consider making a change.

Gonzalez, who has announced her candidacy for secretary of state in 2022, said she hopes local elections officials will take advantage of provisions in the bill that allow the three notices to be delivered by email and text message for voters who provide that information.

"The different forms of communication can help if a voter misses one of them," she said.

AB 681 was introduced in the Legislature last week and must clear both houses and be sent to Gov. Gavin Newsom's desk by late summer.

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POLITICS

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John Myers joined the Los Angeles Times as Sacramento bureau chief in 2015 after more than two decades in radio and television news, much of that as an award-winning reporter covering statehouse policy and politics.

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Oct. 7, 2019

EXHIBIT M

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IN THE UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

VOTING RIGHTS DEFENSE PROJECT, AMERICAN INDEPENDENT PARTY, CLARA DAIMS, and SUZANNE BUSHNELL,

Plaintiffs,

v.

ALEX PADILLA, in his official capacity as Secretary of State and an indispensable party, TIM DEPUIS, in his official capacity as chief of the Alameda County Registrar of Voters, JOHN ARNTZ, in his official capacity as Director of the San Francisco Board of Elections, and DOES I-X,

Defendants.

Case No. 3:16-cv-02739

OPPOSITION OF THE SECRETARY OF STATE TO MOTION FOR PRELIMINARY INJUNCTION

Date:	June 1, 2016
Time:	11:00 a.m.
Dept:	8
Judge:	William Alsup
Trial Date:	None set
Action Filed:	May 20, 2016

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INTRODUCTION

This action presents an ostensible challenge to the process by which presidential primaries are held in California. On the eve of the California primary election, Plaintiffs have sued the California Secretary of State and two county elections officials. By their motion Plaintiffs ask the Court to give them, on an emergency basis, an injunction that would include:

- An order requiring day-of-voting registration, a program that under California law will not be operational until 2018, and logistically could not be implemented for an election that will occur in less than one week;
- An order directing "all poll workers" to provide voters with certain information that, while a practice encouraged as part of the State's goal of providing voters with a positive Election Day experience, is not a requirement of the Elections Code; and
- An order requiring "public service announcements," that, to the extent relevant or accurate, add nothing to massive voter outreach that the Secretary has made and is continuing to make with respect to the upcoming election,

In addition, Plaintiffs ask the Court to order unspecified parties, but presumably county registrars of voters across the state, to comply with Elections Code requirements concerning provision of ballots at polling places, where Plaintiffs have presented no evidence that the county elections officials intend to do anything less than their legal duties.[1]

Changing the rules in the middle of an election is unfair to the voters, candidates and elections officials, but more importantly, it threatens the integrity of the election process. And last minute requests for extraordinary relief distract from the work that must be done in the few days that remain before the election.

Plaintiffs' motion – and this lawsuit – is frivolous. The motion should be denied.

[1] Plaintiffs' motion omits a proposed order, required by Local Rule 7-2(c), so the precise relief they seek is not clear.

STATEMENT OF THE CASE

The presidential primary election in California is set for June 7, 2016, a date established in California Elections Code section 340. The last day to register to vote, or to re-register to vote to change parties or to become a no party preference (NPP) voter, was May 23, 2016. Military and overseas ballots were sent out between April 8 and April 23, 2016. CAL. ELEC. CODE § 3105. Vote-by-mail voting has been going on for weeks. *Id*. § 3001.

The vote by mail applications include language advising NPP voters of their right to request a primary ballot for those political parties that have opted to allow NPP voters to participate in their primary elections. CAL. ELEC. CODE § 3006(c). In addition to printed vote by mail applications, local elections officials may, but are not required to, offer an electronic vote by mail application. Voters also may establish permanent vote by mail voter status. *Id*. § 3201. Prior to every partisan primary election, county elections officials are required to send out a notice and application to every NPP voter who is also a permanent vote-by-mail voter, informing the voter "that he or she may request a vote by mail ballot for a particular party for the primary election, if that political party adopted a party rule" allowing NPP voters to vote in their primary. *Id*. § 3205(b). The accompanying application allows the NPP voter to write in the political party ballot he or she wishes to receive. *Id*.

Plaintiffs filed this action on May 20, 2016.[2] The Complaint alleges violations of the Voting Rights Act, 42 U.S.C. § 1983 and the First and Fourteenth Amendments of the United States Constitution. In addition, the Complaint contains a claim for writ of mandamus under 28 U.S.C. § 1361, based on Defendants' alleged violations of the California Elections Code. On the evening of May 27, 2016, one week after the action was filed and less than two weeks before the presidential primary, Plaintiffs filed a motion for preliminary injunction, and requested an expedited hearing.[3]

[2] Plaintiffs served the complaint on the Secretary of State on May 24, 2016.

[3] Plaintiffs' notice of motion omitted the memorandum of points and authorities that is required to be included in the motion under Local Rule 7-2(b)(4). This Court entered a scheduling order that required Plaintiffs to serve all Defendants with the motion and all supporting papers no later than 4:00 p.m. on May 28, 2016. Just before 4:00 p.m. Plaintiffs filed (continued…)

LEGAL STANDARD

"'[A] preliminary injunction is an extraordinary and drastic remedy, one that should not be granted unless the movant, by a clear showing, carries the burden of persuasion.'" *Mazurek v. Armstrong*, 520 U.S. 968, 972 (1997) (citation omitted). A Plaintiff seeking a preliminary injunction must satisfy a four-part test set out by the United States Supreme Court in *Winter v. Natural Resources Defense Council, Inc*., 555 U.S. 7, 20 (2008). That is, it must "establish [1] that he is likely to succeed on the merits, [2] that he is likely to suffer irreparable harm in the absence of preliminary relief, [3] that the balance of equities tips in his favor, and [4] that an injunction is in the public interest." *Id*.; *see Farris v. Seabrook*, 677 F.3d 858, 864 (9th Cir. 2012).

Further, the primary purpose of a preliminary injunction is to preserve the status quo while a case is decided on the merits. *Chalk v. U.S. Dist. Court*., 840 F.2d 701, 704 (9th Cir. 1988). While a prohibitory injunction preserves the status quo, a mandatory injunction "goes well beyond simply maintaining the status quo pendente lite [and] is particularly disfavored." *Stanley v. Univ. of S. Cal*., 13 F.3d 1313, 1320 (9th Cir. 1994) (citation omitted). When a party requests a mandatory preliminary injunction, "the district court should deny such relief 'unless the facts and law clearly favor the moving party.'" *Id*. (citation omitted); *3570 East Foothill Blvd., Inc. v. City of Pasadena*, 912 F. Supp. 1257, 1261 (C.D. Cal. 1995) ("preliminary injunctions which change the status quo are 'viewed with hesitancy and carry a heavy burden of persuasion'") (internal citation omitted). That close inquiry should be even more rigorous when the preliminary injunction, if ordered, would give the Plaintiffs "substantially all of the relief sought and that relief cannot be undone even if Defendant prevails at trial on the merits." *Forest City Daly*

(…continued)
a document that was titled "Memorandum of Points and Authorities in Support of Plaintiffs' Request for Preliminary Injunctive Relief," but the 19-page document consisted entirely of pasted up pieces of a previously-filed declaration of counsel, excerpts from Plaintiffs' complaint, and a concluding statement that Plaintiffs intended to ask the court's permission to provide a modified brief at 5:00 p.m. that would fix "word processing errors." It was after 6 p.m. before Plaintiffs filed, without an application seeking leave, a 25-page "amended" memorandum.

Housing v. Town of N. Hempstead, 175 F.3d 144, 150 (2nd Cir. 1999); *Larry P. v. Riles*, 502 F.2d 963, 965 (9th Cir. 1974).

A plaintiffs' evidentiary burden in seeking provisional relief in advance of trial is more rigorous when the plaintiff seeks to enjoin governmental action taken in the public interest pursuant to statutory provisions. *Midgett v. Tri-County Metro. Transp. Dist.*, 254 F.3d 846, 851 (9th Cir. 2001); *see also Thomas v. County of Los Angeles*, 978 F.2d 504, 508 (9th Cir. 1992). Thus, "[a] strong factual record is therefore necessary before a federal district court may enjoin a State agency." *Cupolo v. Bay Area Rapid Transit*, 5 F. Supp. 2d 1078, 1085 (N.D. Cal. 1997) (citing *Thomas*, 978 F.3d at 508). Moreover, "it is clear that a state suffers irreparable injury whenever an enactment of its people or their representatives is enjoined." *Coalition for Economic Equity v. Wilson*, 122 F.3d 718, 719 (9th Cir. 1997). Thus, "a federal court must exercise restraint when a plaintiff seeks to enjoin any non-federal government agency, be it local or state." *Midgett*, 254 F.3d at 851.

Finally, *a federal court may not enjoin a state agency based on an alleged violation of state law*. The court will be deemed to have abused its discretion if its injunction "require[s] more of state officials than is necessary to ensure their compliance with federal law." *Clark v. Coye*, 60 F.3d 600, 604 (9th Cir. 1995); *See Trueblood v. Wash. State Dept. of Social & Health Servs.*, -- F.3d --, No. 15-35462, 2016 WL 2610233 (9th Cir., May 6 2016); *Katie A. ex rel. Ludin v. Los Angeles Cty.*, 481 F.3d 1150, 1155 (9th Cir. 2007).

ARGUMENT

I. PLAINTIFFS HAVE NO LIKELIHOOD OF SUCCESS ON THE MERITS.

The first element in *Winter*'s four-factor test for determining whether a preliminary injunction should issue, and the most important, is whether Plaintiffs can show they are likely to succeed on the merits of their claim. *Garcia v. Google, Inc.*, 786 F.3d 733, 740 (9th Cir. 2015). "Because it is a threshold inquiry, when 'a plaintiff has failed to show the likelihood of success on the merits, [the court] need not consider the remaining three [*Winter* elements]'." *Id.* (quoting *Ass'n des Eleveurs de Canards et d'Oies du Quebec v. Harris*, 729 F.3d 937 (9th Cir. 2013). Here, Plaintiffs' burden is "doubly demanding" because they are seeking a mandatory injunction,

and therefore "must establish that the law and facts *clearly favor* [their] position." *Id*. This, Plaintiffs have not done.

A. Plaintiffs' Cannot Prevail on Their Complaint, Which Does Not State a Claim on Which Relief May Be Granted.

To state a claim on which Plaintiffs could be entitled to relief, their complaint[4] must state a claim that is facially plausible, that is, "'the non-conclusory factual content,' and reasonable inferences from that content, must be plausibly suggestive of a claim entitling the Plaintiff to relief." *Moss v. U.S. Secret Serv*., 572 F.3d 962, 969 (9th Cir. 2009). "Determining whether a complaint states a plausible claim . . . [is] a context-specific task that requires the reviewing court to draw on its judicial experience and common sense." *Ashcroft v. Iqbal*, 556 U.S. 622, 670 (2009); *see Bell Atlantic Corp. v. Twombly*, 550 U.S. 544 (2007). Plaintiffs' complaint simply does not plausibly suggest a claim entitling them to any federal court relief. Here, the Complaint alleges in general terms a "failure to inform NPP voter (no party preference voters) of their right to obtain a 'crossover ballot' and vote in the Presidential primary," and an alleged "failure to inform party-affiliated voters of their right to re-register as no party preference voters and still receive the Presidential primary ballots of the Democratic, American Independent, and Libertarian parties." Complaint ¶ 3. This does not plausibly state a claim for relief. *See Swann v. Secretary*, 668 F.3d 1285, 1289 (11th Cir. 2012) (inmate lacked standing to bring 1983 claim based on elections officials' failure to send absentee ballot to inmate's jail address where inmate did not request that the ballot be sent there). At the threshold, no preliminary injunction should be entered based on a facially defective complaint.

Indeed, Plaintiffs' complaint is unintelligible. Their prayer seeks a declaratory judgment that "Defendants' challenge and removal procedures" violate the Voting Rights Act and the federal constitution, but the allegations of the complaint do not explain, describe, or even mention, any challenge and removal procedures, much less allege facts showing that any such procedures violate federal law.[5]

[4] All references herein are to Plaintiffs' First Amended Complaint.

[5] Plaintiffs have asked the Court to allow them to amend the complaint to conform to (continued…)

Moreover, the Complaint is insufficient to show standing. In order to have standing, Plaintiffs must show "first, a 'distinct and palpable' injury to the plaintiff, be it 'threatened or actual'; second, a 'fairly traceable causal connection' between that injury and the challenged conduct of the defendants; and third, a 'substantial likelihood' that the relief requested will redress or prevent the injury." *Olagues v. Russoniello*, 770 F.2d 791, 796 (9th Cir. 1985) (quoting *McMichael v. County of Napa*, 709 F.2d 1268, 1269-70 (9th Cir. 1983). Similarly, "[a] claim is not ripe for adjudication if it rests upon contingent future events that may not occur as anticipated, or indeed may not occur at all." *Texas v. United States*, 523 U.S. 296, 300 (1998); *Thomas v. Anchorage Equal Rights Comm'n*, 220 F.3d 11354, 1138 (9th Cir. 2000). Except for vague and sweeping generalizations, Plaintiffs have failed to plead, much less prove, any threatened or actual injury.

Even if the Court were to overlook these fundamental problems, Plaintiffs have not joined in this lawsuit 56 of the 58 county elections officials against whom Defendants seek injunctive relief. Plaintiffs seek a broad injunction requiring specific actions in connection with a state-wide election that is run by *local elections officials*. *See* Motion at 2-3; Prayer to Amended Complaint.[6]

Plaintiffs' complaint, even taken as true, does not state a claim on which any relief may be granted, let alone the extraordinary remedy of a mandatory injunction that would provide Plaintiffs the ultimate relief they seek in the action.

(…continued)
proof, but their evidence adds nothing to their allegations.

[6] Plaintiffs do not allege that the Secretary controls local election officials, and indeed the Complaint concedes that he does not. Complaint ¶ 15. Thus Plaintiffs' reliance on *Wash. Ass'n of Churches v. Reed*, 492 F. Supp. 2d 1264 (W.D. Wash. 2006), which involved a statute that gave the Washington Secretary of State "the authority to instruct and compel county election official to comply with the laws, rules and guidelines governing elections," and in which Plaintiffs were seeking to enjoin an election-related statute, is misplaced. An injunction directed to the Secretary cannot impose mandates on county election officials who are not parties to this litigation.

B. In Particular, Plaintiffs Have No Likelihood of Succeeding on the Merits of Their Federal Claims.

1. Plaintiffs are unlikely to succeed on their First and Fourteenth Amendments claims.

a. The Elections Code does not violate the First or Fourteenth Amendments.

At least some of Plaintiffs' allegations appear to be an attack on the Elections Code, since Plaintiffs complain, for example, that party-affiliates must affirmatively be informed that they may re-register as NPP voters, and that NPP voters must be offered Democratic, American Independent Party or Peace and Freedom ballots by poll worker on Election Day, neither of which is a requirement of the Elections Code. *See* CAL. ELEC. CODE §§ 3006(c), 3205(b), 13102(b).

The Constitution grants to the States "a broad power to prescribe the 'Times, Places and Manner of holding Elections for Senators and Representatives,' Art. I, § 4, cl. 1." *Tashjian v. Republican Party of Connecticut*, 479 U.S. 208, 217 (1986). As a practical matter, elections cannot be conducted in the absence of extensive state regulation of the election process: "Common sense, as well as constitutional law, compels the conclusion that government must play an active role in structuring elections; 'as a practical matter, there must be a substantial regulation of elections if they are to be fair and honest and if some sort of order, rather than chaos, is to accompany the democratic processes.'" *Burdick v. Takushi*, 504 U.S. 428, 433 (1992) (quoting *Storer v. Brown*, 415 U.S. 724, 730 (1974)); *accord, Timmons v. Twin Cities Area New Party*, 520 U.S. 351, 358 (1997) ("States may, and inevitably must, enact reasonable regulations of parties, elections, and ballots to reduce election- and campaign-related disorder.").

In elections cases, the Supreme Court has developed a balancing test to accommodate speech rights and a State's interest in preserving fair and impartial elections. First, a court must weigh the character and magnitude of the burden the State's rule imposes on those rights against the interests the State contends justify that burden, and consider the extent to which the State's concerns make the burden necessary." *Timmons v. Twin Cities Area New Party*, 520 U.S. 351, 358 (citations and internal quotations omitted).

> Regulations imposing severe burdens on plaintiffs' rights must be narrowly tailored and advance a compelling state interest. Lesser burdens, however, trigger less exacting review, and a State's important regulatory interests will usually be enough to justify reasonable, nondiscriminatory restrictions. . . . . No bright line separates permissible election-related regulation from unconstitutional infringements on First Amendment freedoms.

Timmons, 520 U.S. at 358-359 (citations and internal quotations omitted).

Plaintiffs' complaint contains only a general allegation, quoted in Plaintiffs' Amended Memorandum, that "the acts of the defendants' toward no party preference voters constituted arbitrary discrimination of these plaintiffs as well as the associational classes that Voting Rights Defense Project and American Independent Party represent." Complaint ¶ 29; Amended Memorandum at 9. Plaintiffs do not explain why the First or Fourteenth Amendment is violated by imposing on an NPP voter the de minimis burden of having to request a party presidential primary ballot, or how a party-affiliated voter is unduly burdened because the state does not affirmatively notify that voter that he or she will have to re-register to vote if he or she wishes to vote for a candidate of another political party.

Simply treating NPP voters differently from party voters is not a constitutional violation.[7]

b. Plaintiffs are unlikely to succeed on claims of election fraud.

To the extent Plaintiffs' claims can be construed as claims for election fraud, Plaintiffs still cannot prevail on their First and Fourteenth Amendment claims. A violation of federal constitutional law under section 1983 requires "willful conduct" that "undermines the organic processes by which candidates are elected." *Kozuszek v. Brewer*, 546 F.3d 485, 488 (7th Cir. 2008); *Broyles v. Texas*, 618 F. Supp. 2d 661, 694 (S.D. Tex. 2009). A violation exists only when election irregularities implicate "the very integrity of the electoral process," and "reach a point of patent and fundamental unfairness." *Welch v. McKenzie*, 756 F.2d 1311, 1314 (5th Cir. 1985).

[7] In fact, First Amendment associational rights allow the *exclusion* of NPP voters from party primaries altogether. *California Democratic Party v. Jones*, 530 U.S. 567. 570-71, 575-76 (2000).

Nothing in the complaint or Plaintiffs' evidence suggests purposeful or systematic discriminatory conduct. At the most generous, Plaintiffs' claims could be construed as alleging isolated incidents of election irregularity, which are not sufficient to support a claim under section 1983. "Garden variety" irregularities such as miscounting votes, counting votes illegally cast, arbitrarily rejecting certain ballots, or providing incorrect information to individual voters are not enough to implicate section 1983, *see Broyles*, 618 F. Supp. 2d at 694 (collecting cases cited therein), and Plaintiffs' allegations do not rise even to this level. For example, in *Broyles*, the court concluded that poll officials' failure on scores of occasions to offer a provisional ballots and their provision of inaccurate information about the ballot did not violate section 1983. *Id.* Here, Plaintiffs' main complaint is that Defendants did not do enough – in Plaintiffs' view – to make voters aware of laws that the voters are already presumed to know. *See In re Estate of Haskell*, 92 Cal.App.4th 966, 973 (2001); *In re Town of Sitka*, 11 Alaska 201, 208 (1946). They have neither alleged nor proffered evidence of any discriminatory intent. None of the declarations Plaintiffs have submitted in support of their claim indicate systematic discriminatory conduct; indeed, none of those declarations establish that anyone actually has been denied the right to register to vote or to vote.[8]

2. Plaintiffs have shown no likelihood of prevailing on their Voting Rights Act claims.

a. Plaintiffs have not alleged or shown a race or minority discrimination motive or result.

The Voting Rights Act was intended to eliminate racial discrimination in voting requirements. *Thornburg v. Gingles*, 478 U.S. 30, 47 (1986); *Smith v. Salt River Project Agric. Improvement & Power Dist.*, 109 F.3d 586, 595 (9th Cir. 1997) (in determining whether challenged voting practice violates Voting Rights Act a court must determine whether the process is equally open to minority voters). Plaintiffs do not and cannot allege that the alleged

[8] Many of the declarants reported incidents that do not involved any conduct of the Secretary of State or the San Francisco or Alameda elections officials. Any claims against the elections officials in Monterey, Orange, San Diego or any other county would have to be asserted in an action against those persons.

wrongdoing is tied to "social and historical conditions," for example, that "cause an inequality in the opportunities enjoyed by black and white voters to elect their preferred representatives." *Thornburg v. Gingles*, 478 U.S. 30, 47 (1986); *see Southwest Voter Registration Educ. Project v. Shelley*, 344 F.3d 914, 918 (9th Cir. 2003). Plaintiffs do not purport to identify the alleged injury with any particular race or minority group. *See Smith v. Salt River Project*, 109 F.3d 586, 595 (9th Cir. 1997). Accordingly, Plaintiffs' claims under the Voting Rights Act fail.

b. Plaintiffs have shown no likelihood of success on their claims based on 52 U.S.C. section 10101(a)(2)(A).

Even if Plaintiffs could overcome the threshold defect in their Voting Rights Claim – that they have neither alleged or proved injury to a particular race of minority group – Plaintiffs' claim under 52 U.S.C. section 10101(a)(2)(A) would fail. That statute prohibits elections officials from discriminating between individuals within the same county or other political subdivision with respect to voter registration – in determining whether an individual is *qualified to vote under state law*. Plaintiffs are not being denied the right to register to vote. Section 10101(a)(2)(A) does not require that elections officials provide voters differently situated with the same information.

c. Plaintiffs' have no likelihood of prevailing on their 52 U.S.C. section 10101(a)(2)(B) claims.

Plaintiffs' claim under section 10101(a)(2)(B) of the Voting Rights Act is meritless. Section 10101(a)(2)(B) prohibits a state from refusing to allow an individual to register to vote based on an immaterial error or omission in the registration application. *Friedman v. Snipes*, 345 F. Supp. 2d 1356, 1370-73 (S.D. Fla. 2004). This statute is wholly irrelevant to the petitioners' claims in this case. There is no allegation in the Complaint that any of the Defendants have improperly rejected any application to register to vote, much less that they have done so on the basis of an immaterial error or omission in the registration application. The decision in *Schwier v. Cox*, 42 F. Supp. 2d 1266 (N.D. Ga. 2005), in which the court held that the Voting Rights Act was violated when elections officials refuse to allow voters to register unless they provide social

security numbers – information protected from disclosure under federal law and immaterial to the voter registration process – is simply inapposite.

C. Plaintiffs Likewise Have No Likelihood of Succeeding on the Merits of Their California Elections Code Claims.

1. Plaintiffs' state Elections Code claims cannot support the requested injunction.

a. This Court lacks jurisdiction over Plaintiffs' Elections Code Mandamus Claims.

Plaintiffs' Elections Code claims are set forth in Plaintiffs' "Fourth Cause of Action," which seeks "mandamus pursuant to 28 U.S.C. 1361." This Court lacks jurisdiction over that mandamus claim. Section 1361 provides: "The district courts shall have original jurisdiction of any action in the nature of mandamus to compel an *officer or employee of the United States or any agency thereof* to perform a duty owed to the Plaintiff." (Emphasis added.) It does not give federal courts mandamus jurisdiction over state officials. "[F]ederal district courts are without power to issue mandamus to direct state courts, state judicial officers, or other state officials in the performance of their duties. A petition for a writ of mandamus to compel a state court or official to take or refrain from some action is frivolous as a matter of law." *Todd v. McElhany*, No. CIV S-11-2346 LKK, 2011 WL 5526464, at *2 (E.D. Cal. Nov. 14, 2011) (citing, inter alia, *Demos v. U.S. District Court*, 925 F.2d 1160, 1161 (9th Cir.1991), and *Clark v. Washington*, 366 F.2d 678, 681 (9th Cir.1966)).

b. The Court may not enter an injunction based on Plaintiffs' Elections Code claims.

Even if the Court could exercise jurisdiction over Plaintiffs' Elections Code claims, those claims cannot support the injunction Plaintiffs seek. The federal courts should not intervene in state elections to decide issues of state law where no federal question is involved. *Curry v. Baker*, 802 F.2d 1302, 1315 (11th Cir. 1986); *Hubbard v. Ammerman*, 465 F.2d 1168 (5th Cir. 1972). And a federal court abuses its discretion if it enters any injunction – much less a preliminary injunction – that "requires any more of state officers than demanded by federal constitutional or

statutory law." *Katie A. ex. rel. Ludin v. Los Angeles Cty.*, 481 F.3d at 1155; *Clark v. Coye*, 60 F.3d at 604 (9th Cir. 1995). Thus Plaintiffs' Elections Code claims are legally insufficient.

2. Even if the Court properly could consider Plaintiffs' Elections Code claims, Plaintiffs cannot show a likelihood of succeeding on them.

Even if the Court were to consider Plaintiffs' state law claims, which it should not, Plaintiffs have not shown that they are likely to succeed on them, much less that the law and facts clearly favor their position, which is their burden. *See Garcia v. Google, Inc.*, 786 F.3d at 740.

a. The requested injunction should be denied under the doctrine of laches.

Plaintiffs have waited too long to assert their claims, to Defendants' prejudice. The Voter Information Guide went through a public review period from February 23, 2016 to March 14, 2016, during which time anyone seeking to challenge its content could have filed a petition for writ of mandamus. Declaration of Steven J. Reyes in Opposition to Application for Temporary Restraining Order (Reyes Declaration) ¶ 6; CAL. ELEC. CODE §§ 9092, 13314(a). The application to vote by mail has been posted to the Secretary of State website since 2002. Reyes Declaration ¶ 22 & Exs. S & T. Nothing in Plaintiffs' complaint suggests that Plaintiffs did not discover, and could not in the exercise of reasonable diligence have discovered, the alleged problems long ago.[9]

Yet Plaintiffs waited until just days before the election before filing this action, and inexplicably delayed a week after filing this action before seeking their motion for an injunction. The Secretary of State has been, and is continuing to engage in, appropriate outreach efforts. Reyes Declaration ¶¶ 2-21, 23 & Exs. A-Q. Plaintiffs' own evidence indicates that many, if not most, poll workers have already been trained for their Election Day duties. The last day to register to vote has passed, and the last day to request a vote by mail ballot will have passed, before this motion is heard. Re-opening registration to allow voting through June 7, 2016 would violate Elections Code sections 2102 and 2107. Moreover, it is simply not logistically possible.

[9] The fact that Plaintiffs' *counsel* claim to have only recently learned of alleged problems is irrelevant.

See Declaration of Susan Lapsley in Opposition to Motion for Preliminary Injunction (Lapsley Declaration) ¶¶ 2-12. Same day conditional voting will be possible in California on January 1 of the year following the year California has fully deployed the uniform, centralized statewide voter registration database required by the Help America Vote Act, 52 U.S.C. section 21083. *See* 2012 Cal. Stat. Ch. 497 (Assembly Bill 1436); CAL. ELEC. CODE §§ 2170-2173. But that deployment is not yet complete. Lapsley Declaration ¶¶ 5-7.

"Under the equitable doctrine of laches, the Court may deny an injunction to a plaintiff who fails diligently to assert his claim. 'Laches requires proof of (1) lack of diligence by the party against whom the defense is asserted, and (2) prejudice to the party asserting the defense.'" *Southwest Voter Registration Project v. Shelley*, 278 F. Supp. 2d 1131, 1137-38 (C.D. Cal. 2003) (quoting *Costello v. United States*, 365 U.S. 265, 282 (1961)).[10] Here, the requirements for laches – lack of diligence on Plaintiffs' part and prejudice to Defendants – have been met.

b. Plaintiffs have not shown a violation of the Elections Code.

Plaintiffs' Elections Code claims also fail on the merits. The *only* factual allegation made against the Secretary in the complaint is a bare allegation, on information and belief, that "the Secretary of State failed properly to advise the other Defendants." Amended Complaint ¶ 15. And the very next sentence concedes that the county Defendants have "enormous autonomy" to run their affairs "free from interference from the Secretary." *Id*. Although Plaintiffs allege that the Secretary of State is an "indispensable party," it is not clear what if any relief they are seeking from him. *See id*., Prayer; Amended Memorandum at 2-4.

Plaintiffs argue that the county Defendants' electronic voter registration applications violate Elections Code section 3006 and 3007.7 by not providing "mandatory notice to all voters of their right to state no party preference, and, further, that a no party preference voter shall be provided with Democratic, American Independent Party or Libertarian Party Presidential primary ballot" Complaint ¶ 8. But section 3006 and 3007 apply only to applications for a vote by mail ballot,

[10] The district court decision in *Southwest* was reversed by a panel of the Ninth Circuit, 344 F.3d 882 (2003). On rehearing *en banc* the Ninth Circuit affirmed the district court decision, but did not address the laches issue. 344 F.3d 914 (2003).

and the applications are not required to include the notice language Plaintiffs claim. Section 3006 simply requires that the application

> shall inform the voter that *if he or she has declined to disclose a preference for a political party*, the voter may request a vote by mail ballot for a particular political party for the partisan primary election, if that political party has adopted a party rule, duly noticed to the Secretary of State, authorizing that vote. . . . The application shall contain a checkoff box with a conspicuously printed statement that reads substantially similar to the following: "I have declined to disclose a preference for a qualified political party. However, for this primary election only, I request a vote by mail ballot for the _____ Party." The name of the political party shall be personally affixed by the voter.

CAL. ELEC. CODE § 3006 (emphasis added). The Secretary of State has done much more than the statute requires. He has engaged in extensive outreach to inform all voters about their ability to register as NPP voters and to vote in a primary election for a party that allows NPP voters to do so. Reyes Declaration ¶¶ 2-21 and Exs. A-R. And it is worth noting that county elections officials are not required to provide electronic vote by mail applications at all. The Elections Code merely gives the local elections officials the option to do so. CAL. ELEC. CODE § 3007.7(a) ("The local elections official *may* offer a voter the ability to electronically apply for a vote by mail voter's ballot." (emphasis added)). If Plaintiffs could show a problem with the electronic applications, the remedy would simply be to remove that option, and require all voters to use a printed application.

Although not pleaded in the Complaint, Plaintiffs' motion appears to argue that the Elections Code requires that all poll workers must inform NPP voters of the right to receive a presidential ballot, and that the failure of some poll workers to do so would violate the Elections Code. Motion at 3. Plaintiffs are simply incorrect. Elections Code section 13102(b) states "At partisan primary elections, each voter not registered disclosing a preference with any one of the political parties participating in an election shall be furnished only a nonpartisan ballot, *unless he or she requests a ballot of a political party* and that political party, by party rule duly noticed to the Secretary of State, authorizes a person who has declined to disclose a party preference to vote the ballot of that political party." (Emphasis added.) The Secretary of State's poll workers instruction guide encourages poll workers to affirmatively ask NPP voters if they wish to request a party presidential ballot. But the fact that the Secretary of State encourages, and elections

officials may choose to instruct poll workers to do more than is legally required does not mean that a failure to do so a violation of the Elections Code.[11]

Plaintiffs' argument that the county Defendants violated Elections Code section 3006 "by preparing the Voter Information Pamphlet and Sample Ballot in a non-uniform manner" also fails. Preliminarily, section 3006 sets forth requirements for voter registration applications, not voter information pamphlets and sample ballots. The Secretary of State is required to, and did, prepare a uniform application format for a vote by mail ballot. CAL. ELEC. CODE § 3007. However, the statute expressly provides that "[t]he uniform format need not be utilized by elections officials in preparing a vote by mail voter's ballot application to be included with the sample ballot." *Id*.

Neither the Complaint nor Plaintiffs' motion includes any factual basis for Plaintiffs' request for an injunction order "[e]nsuring that sufficient ballots forms for all of the Presidential primary candidates are at all of the polling places on June 7." Complaint, Prayer. The Elections Code contains specific provisions relating to ballots, CAL. ELEC. CODE § 14102, 14299, and Plaintiffs have not alleged that Defendants have violated, or have threatened to violate, these provisions. Due to the heightened interest in this election, the Secretary of State has urged county elections officials to ensure polling places have ample ballots, and has reminded them of their statutory obligation to have alternative procedures in place in the event there are insufficient ballots at a precinct. Reyes Declaration ¶¶ 19-20 & Exs. P, Q. There is no basis for presuming that Defendants will not properly perform their legal duties. *See* CAL. EVID. CODE § 664.

Finally, in support of their motion, Plaintiffs have filed declarations by individuals who complain about individual incidents involving elections officials who are not parties to this action. *See* Declaration of Mark Seidenberg. While the Secretary of State is not in a position to address factual allegations pertaining to events in which the Secretary of State's Office was not involved,

[11] Plaintiffs own evidence shows that several counties instruct poll workers to affirmatively ask NPP voters if they wish to receive a party ballot. *See, e.g.*, Ex. 3 to Declaration of Ashkey Beck (Doc. ## 22, 22-1, 23) (Beck Declaration), Doc # 25 at 35, Doc # 25-1 at 85, Doc # 25-2 (Orange County); Declaration of Michelle M. Jenab, Doc. # 26-2 (Jenab Declaration) (Los Angeles County); Declaration of Mimi Kennedy (Doc. # 26-1) (Kennedy Declaration) ¶ 7 (Los Angeles County).

it appears that, of those described with sufficient detail to be understood, most of the incidents were either resolved or simply reflect Plaintiffs' misinterpretations of the elections laws. None indicate that any County is engaged in elections misconduct.

In short, even if Plaintiffs' purported Elections Code claims were relevant to this proceeding, and they are not, they fail on the merits.

II. PLAINTIFFS CANNOT ESTABLISH IRREPARABLE INJURY

Because Plaintiffs have failed to establish a likelihood of success on the merits, the Court need not consider the other elements of the four-part test in *Winter*, 555 U.S. at 20. *Garcia v. Google, Inc.*, 786 F.3d at 740; *Ass'n des Eleveurs de Canards et d'Oies du Quebec v. Harris*, 729 F.3d at 944. Plaintiffs' alleged harm is described primarily in terms of abstract speculation – the individual Plaintiffs *might* be denied a "Presidential party ballot for Bernie Sanders." Complaint ¶¶ 18-19.[12] Plaintiffs also imply that some NPP voters *might* not be aware that they can personally deliver their application to vote by mail to the county board of elections office by May 31, 2016, and that some "party-affiliated voters" *might* be unaware that they can re-register as NPP voters and receive a Democratic Party primary ballot. *See* Complaint ¶¶ 3-4. The American Independent Party does not allege that it has or will suffer any harm.[13] Under California law, "[i]t is presumed that official duty has been regularly performed." CAL. EVID. CODE § 664. Plaintiffs have proffered nothing to rebut the presumption that Defendants have and will follow the law in connection with the June 7, 2016 presidential primary. Plaintiffs' declarations describing alleged voter confusion, even if accepted, is not irreparable harm. The Secretary of State has widely disseminated information fully informing NPP voters of their right to receive a presidential ballot.

[12] Indeed, Ms. Bushnell is a registered Democrat who speculates that *if* she decides to change to a no party preference voter right before the presidential primary, she *might* be denied a ballot of the Democratic slate. The notion of filing a federal lawsuit ostensibly to preserve the option to disassociate oneself from the Democratic Party so as to be able to vote in the Democratic presidential primary as an NPP voter piles speculation upon speculation. Moreover, the time to do so has passed; the deadline to change party affiliation or to register was May 23.

[13] The American Independent Party has been a registered political party for more than 40 years. See CAL. ELEC. CODE §§ 7500, 6500-6524 (enacted by Stats. 1994, Ch. 920, Sec. 2). The Complaint contains no hint as to why the American Independent Party suddenly has a problem with the election process this year.

Reyes Declaration ¶¶ 2-21 and Exs. A-R. Plaintiffs have not established any harm, much less irreparable harm.

III. THE BALANCE OF HARDSHIPS AND PUBLIC INTEREST OVERWHELMINGLY WEIGH AGAINST THE REQUESTED TEMPORARY RESTRAINING ORDER.

The harm to the opposing party and weighing the public interest, "merge when the Government is the opposing party." *Nken v. Holder*, 556 U.S. 418, 435 (2009). Granting Plaintiffs the relief they seek of ordering voter registration to be reopened cannot be achieved in time for the June 7 election, and would be costly at any time. Lapsley Declaration ¶¶ 2-12. If voters were to be told that they could register and vote through June 7, when there is no process by which that could happen, confusion and disarray would ensue. Ordering the Secretary of State to issue a "public service announcement" with the content Plaintiffs demand would spread misinformation. And Plaintiffs' demand that the announcements be sent out "statewide" over radio and television would be costly. Plaintiffs' demand that all poll workers be ordered to offer a presidential ballot to an NPP voter, even when the voter has not requested it, omits any explanation as to how that could occur. The poll workers are hired by local elections officials, not the Secretary of State. Poll worker training likely has been completed in most, if not all, jurisdictions. *See, e.g.*, Jenab Declaration ¶ 2; Kennedy Declaration ¶ 7; Declaration of Jennifer J. Abreu (Doc. # 24) ¶ 3; Beck Declaration ¶ 3.; Declaration of Dawn DelMonte (Doc. # 19-3) ¶ 2. And since only two counties have been sued in this litigation, there is no mechanism for ordering the other 56 counties to impose requirements on their poll workers.

Issuance of any injunction in this case would improperly and incorrectly communicate that the Secretary of State is not doing his job with respect to this election, and the elections officials are not doing theirs. To allow this unprecedented disruption would undermine the hard work of thousands of poll workers, and California elections officials, who are working tirelessly to conduct a successful election. Both the law and the public interest require that Plaintiffs not be allowed to use the Court to case a cloud over the legitimacy of the election. The public interest requires that the election proceed without judicial interference.

CONCLUSION

The Court should deny the motion for preliminary injunction.

Dated: May 31, 2016

Respectfully Submitted,

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PROOF OF SERVICE

1. My name is **Ruth Flores**. I am over the age of eighteen. I am employed in the State of California, County of **San Bernardino**.

2. My ✓ business ___ residence address is **Briggs Law Corporation, 99 East "C" Street, Suite 111 Upland, CA 91786**.

3. On **October 8, 2019**, I served ___ an original copy ✓ a true and correct copy of the following documents: **Plaintiffs and Petitioners' Opening Brief in support of Motion for Preliminary Injunction; Declarations of Cory J. Briggs, Daniel Howle, Svetlanna Chyette; Supporting Exhibits**

4. I served the documents on the person(s) identified on the attached mailing/service list as follows:

___ ***by personal service.*** I personally delivered the documents to the person(s) at the address(es) indicated on the list.

✓ ***by U.S. mail.*** I sealed the documents in an envelope or package addressed to the person(s) at the address(es) indicated on the list, with first-class postage fully prepaid, and then I

___ deposited the envelope/package with the U.S. Postal Service

✓ placed the envelope/package in a box for outgoing mail in accordance with my office's ordinary practices for collecting and processing outgoing mail, with which I am readily familiar. On the same day that mail is placed in the box for outgoing mail, it is deposited in the ordinary course of business with the U.S. Postal Service.

I am a resident of or employed in the county where the mailing occurred. The mailing occurred in the city of _____, California.

___ ***by overnight delivery.*** I sealed the documents in an envelope/package provided by an overnight-delivery service and addressed to the person(s) at the address(es) indicated on the list, and then I placed the envelope/package for collection and overnight delivery in the service's box regularly utilized for receiving items for overnight delivery or at the service's office where such items are accepted for overnight delivery.

___ ***by facsimile transmission.*** Based on an agreement of the parties or a court order, I sent the documents to the person(s) at the fax number(s) shown on the list. Afterward, the fax machine from which the documents were sent reported that they were sent successfully.

___ ***by e-mail delivery.*** Based on the parties' agreement or a court order or rule, I sent the documents to the person(s) at the e-mail address(es) shown on the list. I did not receive, within a reasonable period of time afterward, any electronic message or other indication that the transmission was unsuccessful.

I declare under penalty of perjury under the laws ___ of the United States ✓ of the State of California that the foregoing is true and correct.

Date: **October 8, 2019** Signature: Ruth Flores

SERVICE LIST

Jim Boydston v. Alex Padilla, et al.
San Bernardino Superior Court Case No. CIVDS1921480

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