

# California Ballot Pamphlet

General Election  
November 4, 1980



Compiled by March Fong Eu  
Secretary of State

Analyses by William G. Hamm  
Legislative Analyst



Secretary of State

SACRAMENTO 95814

Dear Californians:

This is the English version of the California ballot pamphlet for the November 4, 1980, General Election. It contains the ballot title, a short summary, the Legislative Analyst's analysis, the pro and con arguments and rebuttals, and the complete text of each proposition. It also contains the legislative vote cast for and against any measure proposed by the Legislature.

If you wish to receive a Spanish language ballot pamphlet, simply fill out and mail the card enclosed between pages 40 and 41 of this pamphlet. No postage is needed.

Read carefully each of the measures and the information about them contained in this pamphlet. Legislative propositions and citizen-sponsored initiatives are designed specifically to give you, the electorate, the opportunity to influence the laws which regulate us all.

Take advantage of this opportunity and vote on November 4, 1980.

*March Fong Eu*  
MARCH FONG EU  
Secretary of State

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# Parklands Acquisition and Development Program

## Official Title and Summary Prepared by the Attorney General

<p><b>FOR THE PARKLANDS ACQUISITION AND DEVELOPMENT PROGRAM.</b></p> <p>This act provides for meeting the urgent recreational requirements of the people of California through the acquisition, development, rehabilitation, and restoration of state and local parks, public beaches and other important coastal resources, recreation areas and recreational facilities, and historical resources pursuant to a bond issue of two hundred eighty-five million dollars (\$285,000,000).</p>	
<p><b>AGAINST THE PARKLANDS ACQUISITION AND DEVELOPMENT PROGRAM.</b></p> <p>This act provides for meeting the urgent recreational requirements of the people of California through the acquisition, development, rehabilitation, and restoration of state and local parks, public beaches and other important coastal resources, recreation areas and recreational facilities, and historical resources pursuant to a bond issue of two hundred eighty-five million dollars (\$285,000,000).</p>	

### FINAL VOTE CAST BY THE LEGISLATURE ON SB 624 (PROPOSITION 1)

Assembly—Ayes, 56  
Noes, 16

Senate—Ayes, 27  
Noes, 10

### Analysis by the Legislative Analyst

#### Background:

In past years, the state has financed much of the acquisition and development of state and local parks, historical properties, and recreational facilities through the sale of general obligation bonds. (A general obligation bond is backed by the full faith and credit of the government that issues it.) The 1964, 1970, 1974 and 1976 Park Bond Acts provided a total of \$740 million, of which approximately \$683 million was for state park acquisition, development and restoration projects and grants for local park projects. By July 1981, it is anticipated that most of these funds will have been spent or encumbered.

The state has also financed state and local parks on a "pay as you go" basis, using state tax and other revenues.

#### Proposal:

This proposition would authorize the sale of \$285 million in state general obligation bonds to finance the acquisition, development, and restoration of state and local parklands, coastal lands and historical resources.

The proceeds of this bond issue would be deposited in the Parklands Fund of 1980. These proceeds would be available for appropriation by the Legislature for the following purposes:

- (a) Grants to counties, cities and districts for acquisition, development, rehabilitation or restoration of real property for parks, beaches, recreational and historical resources ..... \$85,000,000
- (b) Acquisition, development, rehabilitation or restoration of real property for the state park system (including \$10 million for

- historical resources) ..... 70,000,000
- (c) Coastal resources (consisting of \$60 million for acquisition or development of real property for the state park system, and \$30 million for (1) grants to counties, cities, and districts to finance local coastal programs, and (2) projects in the San Francisco Bay area and the Santa Monica Mountains zone) ..... 90,000,000
- (d) Coastal agricultural protection, area restoration and resource enhancement to be expended by the State Coastal Conservancy .. 10,000,000
- (e) State grants to local agencies primarily for urban parks..... 30,000,000
- Total ..... \$285,000,000

The bond act contains provisions to limit or guide the state and local agencies in the expenditure of their portions of the bond proceeds. These provisions are too extensive to be summarized.

#### Fiscal Effect:

Assuming an interest rate of 7 percent and a 20-year repayment period, the interest on \$285 million of general obligation bonds would be approximately \$210 million. The principal and interest cost of paying off the bonds authorized by this measure, therefore, would total \$495 million. This cost would be paid by the State General Fund. In addition, state and local bond interest costs could be increased by an unknown, but probably moderate, amount if the sale of the parklands bonds results in higher interest rates for state and local bonds.

The interest paid on these bonds would be exempt from the state personal income tax. Therefore, to the

extent that the bonds are purchased by California taxpayers in lieu of taxable bonds, the state would experience a loss of income tax revenue.

State and local agencies would receive minor operating revenues from the facilities acquired or constructed with the bond funds. These operating revenues probably would not be sufficient to cover in full the continuing operating and maintenance costs which would result from the acquisition or development of park or

recreation facilities.

To the extent privately owned lands are acquired by the state under this measure, local governments would experience a reduction in property tax revenues. This loss would depend on (1) the location of such acquisitions and (2) the assessed value of lands purchased by the state. Under existing law, state payments to school districts would increase to cover the revenue loss of the school districts.

## Text of Proposed Law

This law proposed by Senate Bill 624 (Statutes of 1980, Ch. 250) is submitted to the people in accordance with the provisions of Article XVI of the Constitution.

This proposed law adds sections to the Public Resources Code; therefore, new provisions proposed to be added are printed in *italic type* to indicate that they are new.

### PROPOSED LAW

SECTION 1. Chapter 1.69 (commencing with Section 5096.141) is added to Division 5 of the Public Resources Code, to read:

#### CHAPTER 1.69. CALIFORNIA PARKLANDS ACT OF 1980

##### Article 1. General Provisions

*5096.141. This chapter shall be known and may be cited as the California Parklands Act of 1980.*

*5096.142. The Legislature hereby finds and declares that:*

(a) *It is the responsibility of this state to provide and to encourage the provision of recreational opportunities and facilities for citizens of California.*

(b) *It is the policy of the state to preserve, protect, and, where possible, restore coastal resources which are of significant recreational or environmental importance for the enjoyment of present and future generations of persons of all income levels, all ages, and all social groups.*

(c) *When there is proper planning and development, parks, beaches, recreation areas and recreational facilities, and historical resources preservation projects contribute not only to a healthy physical and moral environment, but also contribute to the economic betterment of the state, and, therefore, it is in the public interest for the state to acquire, develop, and restore areas for recreation, conservation, and preservation and to aid local governments of the state in acquiring, developing, and restoring such areas as will contribute to the realization of the policy declared in this chapter.*

*5096.143. The Legislature further finds and declares that:*

(a) *The demand for parks, beaches, recreation areas and recreational facilities, and historical resources preservation projects in California is far greater than what is presently available, with the number of people who cannot be accommodated at the area of their choice or any comparable area increasing rapidly. Further, the development of parks, beaches, recreation areas and recreational facilities, and historical resources preservation projects has not proceeded rapidly enough to provide for their full utilization by the public.*

(b) *The demand for parks, beaches, recreation areas and recreational facilities, and historical resources preservation projects in the urban areas of our state is even greater since over 90 percent of the present population of California reside in urban areas; there continues to be a serious deficiency in open space and recreation areas in the metropolitan areas of the state; less urban land is available, costs are escalating, and competition for land is increasing.*

(c) *There is a high concentration of urban social problems in California's major metropolitan areas which can be par-*

*tially alleviated by increased recreational opportunities.*

(d) *California's coast provides a great variety of recreational opportunities not found at inland sites; it is heavily used because the state's major urban areas lie, and 85 percent of the state's population lives, within 30 miles of the Pacific Ocean; a shortage of facilities for almost every popular coastal recreational activity exists; and there will be a continuing high demand for popular coastal activities such as fishing, swimming, sightseeing, general beach use, camping, and day use. Funding for the acquisition of a number of key coastal sites is critical at this time, particularly in metropolitan areas where both the demand for and the deficiency of recreational facilities is greatest. Development pressures in urbanized areas threaten to preclude public acquisition of these key remaining undeveloped coastal parcels unless these sites are acquired in the near future.*

(e) *Increasing and often conflicting pressures on limited coastal land and water areas, escalating costs for coastal land, and growing coastal recreational demand require, as soon as possible, funding for, and the acquisition of, land and water areas needed to meet demands for coastal recreational opportunities, to implement recommendations for acquisitions of the Coastal Plan prepared and adopted in accordance with the requirements of the California Coastal Zone Conservation Act of 1972, and to implement local coastal programs required pursuant to the California Coastal Act of 1976.*

(f) *There is a pressing need to provide funding for a coordinated state program designed to provide expanded public access to the coast, to preserve prime coastal agricultural lands, and to restore and enhance natural and manmade coastal environments pursuant to activities of the State Coastal Conservancy undertaken pursuant to Division 21 (commencing with Section 31000).*

(g) *Cities, counties, and districts must exercise constant vigilance to see that the parks, beaches, recreation areas and recreational facilities, and historical resources they now have are not lost to other uses; they should acquire additional lands as such lands become available; they should take steps to improve the facilities they now have.*

(h) *Past and current funding programs have not and cannot meet present deficiencies. This condition has become more acute as a result of restrictions on local governmental revenues.*

(i) *In view of the foregoing, the Legislature declares that an aggressive, coordinated, funded program for meeting existing and projected recreational demands must be implemented without delay.*

*5096.144. As used in this chapter, the following terms shall have the following meanings:*

(a) *"Coastal resources" means those land and water areas within the coastal zone, as defined in subdivisions (a) and (b) of Section 31006, and within the Santa Monica Mountains Zone, as described in Section 33105, which are suitable for public park, beach, or recreational purposes, including, but*

*Continued on page 48*

## Argument in Favor of Proposition 1

Your vote FOR Proposition 1 will enable your community and the state to continue to satisfy your needs for recreational opportunities and facilities.

In recent years, California's population growth rate has slowed. But shifts in population to new communities and the high cost of gasoline have resulted in an increased need to provide local and state parks, open-space areas, camping opportunities, and other recreation facilities closer to the people who use them.

Recreational preferences are changing, too. More people than ever before are jogging, taking short day hikes, and bicycling. Many communities simply do not have the trails and other facilities to accommodate residents who pursue these inexpensive and healthful activities. Changes in population groups have created new demands for facilities; in many neighborhoods, facilities for senior citizens and other special groups are unavailable.

With rising costs, state and local governments are increasingly unable to finance urgently needed rehabilitation, maintenance, and expansion of existing facilities. State parks are overcrowded, and improvements have been deferred repeatedly. During the summer of 1980, it is expected that the state park system will have to turn away more than 1,000,000 people who want to visit state parks and beaches. Many local facilities will also be overused.

Your vote FOR Proposition 1 will make possible:

- Expanded and improved neighborhood recreation facilities financed through state grants to your local government or park district.
- More campsites, renovation of rundown facilities, and further improvements of the state park system.
- New and expanded state parks near population cen-

ters, and in scenic coastal areas.

- Projects for enhancing your access to and enjoyment of coastal and waterfront areas, through a program of grants to local government.

- Preservation of rapidly disappearing historic landmarks in your community, for the enjoyment and education of present and future generations.

Proposition 1 makes economic sense. Inflation and rapid residential and commercial development will increasingly restrict the opportunities to develop and acquire parklands. These opportunities will become prohibitively expensive, and will be lost forever if we wait. The bond issue proposed in Proposition 1 will enable these costs to be spread prudently over a period of years.

Expenditures for parks help the local economy as well. A recent study determined that every dollar spent by local government for park improvements generates \$3.46 in economic activity in the community.

Proposition 1 has bipartisan support; it has been endorsed by many statewide organizations representing business, labor, conservation, park users, and local government.

Vote FOR Proposition 1: Vote to assure more and better recreational opportunities for all Californians.

**JOHN A. NEJEDLY**

*Republican State Senator, 7th District  
Chairman, Senate Committee on  
Natural Resources and Wildlife*

**ANSEL ADAMS**

*Photographer and Naturalist*

**DAVID A. ROBERTI**

*Democratic State Senator, 23rd District  
Senate Majority Leader*

## Rebuttal to Argument in Favor of Proposition 1

The proponents of Proposition 1 must think the people of California have extremely short memories. The voters just turned down the predecessor of Proposition 1 on June 3rd. Now, those who like to spend our money are right back again. This time they have put a new face on the pig-in-a-poke they are trying to sell us. This pork barrel will only cost us approximately \$500 million. For anyone who thinks we can go into debt for another \$500 million with our current economy, we have some ocean front property in Phoenix we'd like to sell them.

For example, one of the things Proposition 1 is supposed to provide is more urban parks. Unfortunately, many of our current urban parks are frequently vandalized and are not even safe to be in. The proponents'

own arguments talk about money "to finance urgently needed rehabilitation." Maybe we need to improve the crime and vandalism problem before we think about more urban parks.

The State Legislative Analyst's office has advised as of June 30 we still haven't dispensed \$244 million of 1974 and 1976 Bond Act moneys for land acquisition and development. We simply can't afford to go another \$500 million into debt. Vote NO on Proposition 1.

**H. L. RICHARDSON**

*State Senator, 25th District  
Member, Senate Committee on  
Natural Resources and Wildlife*

**JOHN SCHMITZ**

*State Senator, 36th District*

## Argument Against Proposition 1

Proposition 1 is an attempt to prove the old adage—"If at first you don't fool the voters then try, try again." Proposition 1 on the last June ballot was rejected by the voters of the State of California. Now a few months later we have "the Son of Proposition 1," and "Junior" is a \$500 million bundle of debt.

The proponents of "Junior" argue they have taken out the controversial and objectionable parts which voters rebelled against in "Papa" Proposition 1 last June 3. They specifically mention the provisions relating to recreational boating, Lake Tahoe land acquisitions, wildlife habitat improvement, fishery management, water conservation, or wastewater treatment. They also attempt to argue the emphasis of the proposition has now been shifted to development of existing parks, which is only marginally true. Nowhere in the proposition does it declare that cities, counties and districts, or for that matter the state park system itself, are *required* to use the allocated moneys for development. Rather the proposition gives the individual governing body the *option* of developing existing structures or acquisition of additional lands.

This measure would allocate over \$220 million for land acquisition when better than 50 percent of California is already owned by the government. If the state keeps acquiring more land we will soon be one big park tied together by bicycle trails. Proposition 1, like its predecessor which was just defeated, is also a "pork barrel" bond issue that will actually cost taxpayers approximately \$500 million when bond interest payments are included.

Land that is purchased through moneys allocated in this measure is taken off the tax roll, thereby increasing the taxes of the rest of us. Additionally, this is not a revenue bond proposition. The principal and interest will be repaid from the General Fund, which is your taxpayer dollars. This increased debt for taxpayers comes at a time when we can least afford it. Economic predictions throughout the country suggest this is the worst possible time for taxpayers to incur additional debt. The proponents of this measure easily cast aside such concerns and propose sending the taxpayers a \$500 million debt bill.

This proposition is neither needed nor desired. If further moneys are required to develop existing parks in the future they should be requested and approved through the budget process, not by this blatant attempt to seduce the voters into voting for a measure that flies in the face of taxpayer demand for reduced government and government spending. This measure is appropriately called "Son of Proposition 1," and should be given the same strong rejection as "Papa" Proposition 1 received in June of this year. Don't be fooled by the little S.O.P. 1.

Vote *NO* on Proposition 1.

**H. L. RICHARDSON**  
*State Senator, 25th District*  
*Member, Senate Committee on*  
*Natural Resources and Wildlife*

**JOHN SCHMITZ**  
*State Senator, 36th District*

## Rebuttal to Argument Against Proposition 1

The opponents' argument overlooks the fact that Proposition 1 responds directly to current public demand for more campsites, trails, beach access, and other development at state and local parks.

They do not dispute the need for better recreational opportunities closer to population centers, which Proposition 1 seeks to provide. Also, they are simply wrong when they say that more than \$220 million will be allocated for acquisition. In fact, at least half of the money for the state park system is *required* to be spent for development, and all funds in Proposition 1 *can* be spent for development of existing state and local parks. Present trends indicate that about 85 percent of local expenditures will be for development.

Further, the opponents' assertion that about half of California is publicly owned is true, but meaningless. Over 96 percent of this property is owned by the *federal* government, mainly in areas far away from cities. Obviously, a desert artillery range isn't useful for recreation. Only about 1½ percent of California is state and local parklands.

Proposition 1 provides for tight fiscal controls, contrary to what the opponents say. Every cent authorized by Proposition 1 must be included in the annual State Budget Bill before it may be spent. (See Section 5096.206 of this measure, printed in this pamphlet.) Accordingly, economic conditions can be taken into account when making appropriations for parklands, and bonds cannot be sold without legislative approval.

Preserve and improve your state and local parklands.  
Vote *FOR* Proposition 1.

**JOHN A. NEJEDLY**  
*Republican State Senator, 7th District*  
*Chairman, Senate Committee on*  
*Natural Resources and Wildlife*

**ANSEL ADAMS**  
*Photographer and Naturalist*

**DAVID A. ROBERTI**  
*Democratic State Senator, 23rd District*  
*Senate Majority Leader*

## Official Title and Summary Prepared by the Attorney General

<p><b>FOR THE LAKE TAHOE ACQUISITIONS BOND ACT OF 1980.</b></p> <p>This act provides funding for the purchase of property in the Lake Tahoe Basin, which is necessary to prevent the environmental decline of this unique natural resource, to protect the waters of Lake Tahoe from further degradation, and to preserve the scenic and recreational values of Lake Tahoe. The amount provided by this act is eighty-five million dollars (\$85,000,000).</p>	
<p><b>AGAINST THE LAKE TAHOE ACQUISITIONS BOND ACT OF 1980.</b></p> <p>This act provides for a bond issue of eighty-five million dollars (\$85,000,000) to be used for the acquisition of property in the Lake Tahoe region for public purposes.</p>	

## FINAL VOTE CAST BY THE LEGISLATURE ON SB 1756 (PROPOSITION 2)

Assembly—Ayes, 55  
Noes, 16

Senate—Ayes, 29  
Noes, 9

## Analysis by the Legislative Analyst

**Background:**

In recent years, environmental restrictions enacted by state, regional and local agencies, and other state and local policies, have significantly affected the development of private property in the Lake Tahoe region. Existing laws and regulations limit or prohibit certain types of land uses in designated locations within the region. As a result, the value of such property has been reduced.

Existing state law does not provide a source of funding to purchase undeveloped private property subject to land use restrictions. Although state funds have been utilized at Lake Tahoe to purchase property, this property has been acquired primarily for its recreational qualities and to expand the California state park system.

**Proposal:**

This measure, the Lake Tahoe Acquisitions Bond Act of 1980, would authorize the state to issue and sell \$85 million in state general obligation bonds. (A general obligation bond is backed by the full faith and credit of the state.) The proceeds of this bond sale would be used to acquire undeveloped land in the Lake Tahoe region, including private property that has been subdivided and improved with streets and utilities but which contains no structures. The following types of undeveloped land could be purchased with bond proceeds:

- (a) Lands threatened with development that would adversely affect the natural environment, with preference given to the acquisition of lands within stream environment zones.
- (b) Lands providing lakeshore access to the public, preservation of wildlife habitat, recreation, or a combination of the above.
- (c) Lands not meeting the above requirements, but which, if acquired, would provide access to other public lands or consolidate ownership for more effective management.

If the value of such lands has been substantially reduced by any legislation, ordinance, or state or local regulation adopted after January 1, 1980, for the purpose of protecting water quality or other resources in the Lake Tahoe region, the bond act permits the purchasing agency to acquire the land for a price which assures fairness to the landowner. In determining this price, the purchasing agency may consider (1) the price the owner originally paid for the land, (2) any special assessments paid by the landowner, and (3) any other factors which would ensure that the landowner receives a fair and reasonable price for the land.

Bond proceeds would be expended by whichever federal, state, regional, or local agency is designated by legislation in accordance with the recommendations of the Lake Tahoe Area Land Acquisition Commission. The commission is created by Assembly Bill 2873, which had not been enacted when this analysis was prepared. If no such agency is designated prior to July 1, 1982, the bond proceeds would be expended by the California Tahoe Conservancy Agency. Under existing law, this agency is authorized to acquire and hold private land through purchase, gifts and exchanges. It is also authorized to manage land under its ownership or control in cooperation with local, state or federal agencies. The California Tahoe Conservancy Agency has a governing body consisting of members of the public appointed by local government and the California Legislature, and representatives of the Secretary of the Resources Agency and U.S. Secretary of Agriculture.

**Fiscal Effect:**

Assuming an interest rate of 7 percent and a 20-year repayment period, the interest on \$85 million of general obligation bonds would be approximately \$62.5 million. The principal and interest cost of the bonds authorized by this measure, therefore, could total \$147.5 million. This cost would be paid by the State General Fund. If



the sale of bonds authorized by this measure results in a higher overall interest rate on other state and local bonds, state and local borrowing costs would be increased by an unknown, but probably moderate, amount.

Any ongoing operating and maintenance costs to state, regional or local governments resulting from the acquisition of lands in the Lake Tahoe region are unknown. Such costs, if any, would depend on how these lands are managed.

The interest paid to holders of the bonds authorized by this measure would be exempt from the state per-

sonal income tax. Therefore, to the extent that California taxpayers purchase these bonds in lieu of taxable bonds, there would be a loss of income tax revenue to the state. Any such loss probably would be minor.

To the extent privately owned lands are acquired by the state under this measure, local governments in the Lake Tahoe region would experience a reduction in property tax revenues. This loss would depend on (1) the location of such acquisitions, and (2) the assessed value of the lands. Under existing law, state payments to school districts would increase to cover the revenue loss of the school districts.

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## Text of Proposed Law

This law proposed by Senate Bill 1756 (Statutes of 1980, Ch. 253) and amended by Senate Bill 2067 (Statutes of 1980, Ch. 376) is submitted to the people in accordance with the provisions of Article XVI of the Constitution.

This proposed law adds sections to the Government Code; therefore, new provisions proposed to be added are printed in *italic type* to indicate that they are new.

### PROPOSED LAW

SEC. 13. Title 7.43 (commencing with Section 66950) is added to the Government Code, to read:

#### TITLE 7.43. LAKE TAHOE ACQUISITIONS BOND ACT OF 1980

##### CHAPTER 1. FINDINGS AND DECLARATIONS

66950. *This title shall be known and may be cited as the Lake Tahoe Acquisitions Bond Act of 1980.*

66951. *It is found and declared that:*

(a) *The waters of Lake Tahoe and other resources of the region are threatened with deterioration or degeneration which endangers the natural beauty and economic productivity of the region.*

(b) *The state and federal interests and investments in the region are substantial.*

(c) *The region exhibits unique state and national environmental and ecological values which are irreplaceable.*

(d) *By virtue of the special conditions and circumstances of the region's natural ecology, developmental pattern, population distribution, and human needs, the region is experiencing problems of resource use and deficiencies of environmental control.*

(e) *Increasing urbanization is threatening the ecological values of the region and threatening the public opportunities for use of the public lands.*

(f) *Maintenance of the social and economic health of the region depends on maintaining the significant scenic, recreational, educational, scientific, natural, and public health values provided by the Lake Tahoe Basin.*

(g) *There is a state and national interest in protecting, preserving and enhancing these values for the residents of the region and for visitors to the region.*

##### CHAPTER 2. FISCAL PROVISIONS

66952. *The State General Obligation Bond Law is adopted for the purpose of the issuance, sale, and repayment of, and otherwise providing with respect to, the bonds authorized to be issued pursuant to this title, and the provisions of that law are included in this title as though set out in full in this chapter except that, notwithstanding anything in the State General Obligation Bond Law, the maximum maturity of the bonds shall not exceed 20 years from the date of each respective*

*series. The maturity of each respective series shall be calculated from the date of such series.*

66953. *As used in this title, and for the purposes of this title, the following words shall have the following meanings:*

(a) *"Committee" means the Lake Tahoe Acquisitions Finance Committee created by Section 66955.*

(b) *"Fund" means the Lake Tahoe Acquisitions Fund.*

(c) *"Lake Tahoe region" and "region" means the area consisting of Lake Tahoe, the adjacent parts of the Counties of Douglas, Carson, and Washoe lying within the Tahoe Basin in the State of Nevada, and the adjacent parts of the Counties of Placer and El Dorado lying within the Tahoe Basin in the State of California, and that additional and adjacent part of the County of Placer outside the Tahoe Basin in the State of California which lies southward and eastward of a line starting at the intersection of the basin crestline and the north boundary of Section 1, thence west to the northwest corner of Section 3, thence south to the intersection of the basin crestline and the west boundary of Section 10; all sections referring to Township 15 North, Range 16 East, M.D.B. and M.*

(d) *"Agency" means the agency authorized under Section 66957 to expend money in the fund.*

66954. *There is in the State Treasury the Lake Tahoe Acquisitions Fund, which fund is hereby created.*

66955. *For the purpose of authorizing the issuance and sale, pursuant to the State General Obligation Bond Law, of the bonds authorized by this title, the Lake Tahoe Acquisitions Finance Committee is hereby created. The committee consists of the Governor or his designated representative, the Controller, the Treasurer, the Director of Finance. The Lake Tahoe Acquisitions Finance Committee shall be the "committee" as that term is used in the State General Obligation Bond Law, and the Treasurer shall serve as chairman of the committee.*

66956. *The committee is hereby authorized and empowered to create a debt or debts, liability or liabilities, of the State of California, in the aggregate amount of eighty-five million dollars (\$85,000,000), in the manner provided in this title. Such debt or debts, liability or liabilities, shall be created for the purpose of providing the funds to be used for the object and work specified in Section 66957 and for administrative costs incurred in connection therewith, as provided in Section 66906.7.*

66957. *Moneys in the fund shall be available for expenditure in accordance with this division by a new or existing federal, state, regional, or local agency, or any combination thereof, to be designated by statute in accordance with the recommendations of the Tahoe Area Land Acquisition Commission. If no such agency is designated by July 1, 1982,*

*Continued on page 52*

## Argument in Favor of Proposition 2

## SAVE LAKE TAHOE!

Lake Tahoe is one of California's most scenic treasures. Twenty-two million people visit the lake annually, the largest high mountain lake in North America, to enjoy its invigorating air and legendary clear water. Mark Twain referred to Tahoe as "the fairest picture the whole earth provides."

Today Lake Tahoe is strained to the breaking point. In the past several decades, the lake's water has undergone tragic deterioration. Mossy algae cling to piers and rocks; a green rim is appearing along the shore as a result of algae growth. In the last ten years there has been an 18-percent increase in nitrogen loading and a 23-percent increase in phosphorus in the lake. If this deterioration is permitted to continue, Tahoe's blue water will change to green and lose its precious clarity.

Pollution also is affecting Tahoe's air quality. A smoggy haze often lingers over the shoreline and obscures the view of mountains across the lake. The environmental quality of Lake Tahoe Basin has deteriorated in a measurable cumulative way. Between 1970 and 1978 the rate at which algae grew in Lake Tahoe increased 50 percent, continuing a trend of growth coupled with a decrease in lake clarity of 6-13 percent. Urban development has encroached in 17 percent of all stream environment zones and 50 percent of the basin's meadowland, contributing to water quality problems as well as having a direct effect on wildlife habitat loss.

In recent years, state, federal and regional agencies

have developed plans to protect Lake Tahoe's unique quality. This bond act is needed to carry out these plans and provide needed protection for the environmentally sensitive Tahoe Basin. It would assist lot owners denied building permits for lack of sewage capacity.

These bonds will provide \$85 million to purchase lands in the Lake Tahoe Basin threatened by development. The first priority is to protect environmentally sensitive lands where development would adversely affect water quality; other priorities include the preservation of stream zones, wildlife habitat and public lakeshore access. By offering property owners a fair market value, this bond issue provides the best mechanism for protection of private property and Lake Tahoe's scenic qualities. Only voluntary sales will occur; condemnation is prohibited.

Lake Tahoe is a treasure that is shared by all Californians. If the present trend of degradation is allowed to continue, the "Gem of the Sierra" will be just a memory. By supporting this bond measure, Californians will help ensure that this priceless lake is protected so that it may be enjoyed by our children and future generations.

**JOHN GARAMENDI**  
*State Senator, 13th District*

**CHARLES R. IMBRECHT**  
*Member of the Assembly, 36th District*

**JAMES W. BRUNER, JR.**  
*Executive Director, League to Save Lake Tahoe*

## Rebuttal to Argument in Favor of Proposition 2

Don't let politicians and bureaucratic land grabbers con you into believing that Proposition 2 will solve major environmental problems at Lake Tahoe. This smokescreen doesn't stand up to the light of day. For example, common sense will tell you that acquiring the remaining land at Tahoe will not significantly decrease the traffic flow into the basin, since the vast majority of visitors to the area don't own property there and don't intend to. When you really think about it, the proponents of Proposition 2 are not only trying to pull the wool over our eyes but also the tax dollars out of our pockets.

The City of South Lake Tahoe and other governmental agencies currently have the ability to impose severe restrictions in the area, and they have already done so. It is not necessary for the whole state to come in and,

in effect, preempt local control—especially when it isn't needed.

We don't need to take more land off the state's tax rolls in these difficult economic times. This is especially true in this case when you realize that, according to the State Legislative Analyst's office, as of June 30 we still haven't dispersed roughly \$244 million of 1974 and 1976 bond act moneys for land acquisition and development. Despite this, the politicians and bureaucrats want you to go further into debt to the tune of \$147.5 million.

Don't be fooled into mortgaging your children's future. Vote NO on the scheme known as Proposition 2.

**H. L. RICHARDSON**  
*State Senator, 25th District*  
*Member, Senate Committee on*  
*Natural Resources and Wildlife*

## Argument Against Proposition 2

Proposition 2 is "Preserves Lake Tahoe for the Rich Pitch." Isn't that a switch? Those who now own chalets, condos and cabins on beautiful Tahoe will see a real jump in the value as the state picks up the undeveloped property around them. And what is the tab? A cool \$85 million to the California Tahoe Conservancy Agency. The actual cost of this measure would be an additional \$147.5 million in debt for you the taxpayer.

Incredibly enough, this money is to be spent by this agency to acquire the following types of land in the Lake Tahoe region:

- (1) Land providing public lakeshore access.
- (2) Lands threatened with development.
- (3) Lands which would consolidate parcels for more effective management, or provide public access to other public lands.

By their own admission "undeveloped land" includes "land that has been subdivided and improved with

streets and utilities, but does not have structures . . ."

Most people do not realize it, but over 50 percent of this state is already owned by the government. Each time we allow the government to "acquire" a piece of land, that parcel is taken off the tax rolls and adds further taxes to the already burdensome taxpayer bill. Millions of acres that once paid taxes have become nothing more than a drain of taxpayers' dollars. We are spending so much of our hard-earned money on taxes to support these lands that we do not have any left over to enjoy their beauty.

Californians do not need an additional \$147.5 million debt, and we do not need to confiscate any more land—no matter how highfalutin the purpose.

**H. L. RICHARDSON**  
*State Senator, 25th District*  
*Member, Senate Committee on*  
*Natural Resources and Wildlife*

## Rebuttal to Argument Against Proposition 2

The Federal Clean Water Act mandates the preservation of high-quality water which, because of exceptional recreational or ecological significance, constitutes an outstanding national resource.

Lake Tahoe's magnificent clear water, striking mountains and coniferous forests constitute such a resource. Today, Lake Tahoe is threatened.

The state has the legal authority and responsibility to approve and enforce a water quality plan which fully protects Lake Tahoe.

To maintain water quality there must be a major reduction of sediment and nutrients now flowing into the lake. This reduction can only be achieved with some controls on development.

There are approximately 15,000 vacant residential and commercial parcels in existing subdivisions on the California side. At minimum, the control needed to pro-

tect water quality will prohibit development of some 5,000 parcels.

This bond issue will provide \$85 million for the acquisition of such property in environmentally sensitive areas. This bond issue protects both property owners and Lake Tahoe's scenic qualities.

The total investment, including interest over 20 years, comes to about 33 cents a year for each Californian. We believe this to be a reasonable investment to protect an exceptional recreational and scenic resource that is enjoyed each year by millions of Californians.

**JOHN GARAMENDI**  
*State Senator, 13th District*  
**CHARLES R. IMBRECHT**  
*Member of the Assembly, 36th District*

**JAMES W. BRUNER, JR.**  
*Executive Director, League to Save Lake Tahoe*

## Official Title and Summary Prepared by the Attorney General

**INSURANCE GUARANTEE FUNDS. TAX OFFSET. LEGISLATIVE CONSTITUTIONAL AMENDMENT.** Authorizes enactment of statutes by the Legislature to establish insurance guarantee funds or associations for the purpose of paying claims against insolvent insurers. Such legislation could also provide that contributions to such funds or associations by insurers may be allowed as a deductible offset against their annual gross premium tax. Fiscal impact on state or local governments: If offset allowed by legislation, could result in State General Fund loss of as much as \$30 million per year.

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**FINAL VOTE CAST BY THE LEGISLATURE ON ACA 30 (PROPOSITION 3)**

Assembly—Ayes, 63  
Noes, 10

Senate—Ayes, 31  
Noes, 4

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**Analysis by the Legislative Analyst****Background:**

Existing law requires certain insurance companies that sell insurance in California to participate in an Insurance Guarantee Association. Whenever one of these insurance companies becomes insolvent and thus is unable to honor insurance claims against it, the association collects funds from the other member companies to pay claims. During the last five years, claims against insolvent insurance companies totaled about \$98 million.

Under existing law, the state imposes a 2.35-percent tax on the gross premiums that insurance companies collect on the policies they issue. Contributions by insurance companies to the Insurance Guarantee Association are *not* deductible from the amount of tax owed the state.

**Proposal:**

This measure would amend the state's Constitution to permit the Legislature to enact legislation allowing in-

urance companies to deduct, from the amount of tax owed to the state, their contributions to the Insurance Guarantee Association or any other similar associations established by statute.

**Fiscal Effect:**

By itself, this measure would have no direct effect on state expenditures or revenues because it only authorizes the Legislature to take action. If the Legislature uses the authority granted by this measure, then there could be a substantial reduction in state revenues. This is because insurance companies could deduct all or part of their contributions to these guarantee associations or funds from their state tax liabilities.

Full deductibility of contributions by insurance companies participating in the Insurance Guarantee Association would have reduced State General Fund revenues by an average of \$30 million per year during the past three years.

**Study the issues carefully**

### **Text of Proposed Law**

This amendment proposed by Assembly Constitutional Amendment 30 (Statutes of 1980, Resolution Chapter 10) expressly amends an existing section of the Constitution by adding a subdivision thereto; therefore, new provisions proposed to be added are printed in *italic type* to indicate that they are new.

#### **PROPOSED AMENDMENT TO ARTICLE XIII, SECTION 28**

*(k) The Legislature, a majority of all the members elected to each of the two houses voting in favor thereof, may by law establish one or more insurance guarantee funds or associations with membership composed of insurers admitted to do business in this state for the purpose of paying claims against insolvent insurers. The amount of contribution by each insurer may be allowed as a deductible offset against the annual gross premium tax imposed by this section.*

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**Polls are open from 7 a.m. to 8 p.m.**

### Argument in Favor of Proposition 3

Proposition 3 will allow you to decide whether California should adopt a life and disability insurance guarantee fund based on model legislation already enacted in many states.

A YES vote on Proposition 3 will mean that the state should stand behind every insurance policy issued in California. A NO vote would indicate to the State Legislature that voters do not favor a guarantee fund to protect life and disability insurance policyholders in the event that a life insurance company doing business in California becomes insolvent.

Proposition 3 supports legislative enactment of guarantee funds to stand behind every insurance policy issued in California. In the event that any insurance company becomes insolvent, the guarantee funds would be used to assure full payment of policy benefits. To support the guarantee funds, each insurance company would be assessed according to the amount of business it does in California. In turn, the Legislature could permit companies to deduct the amount of such payments from the gross premiums tax paid by insurance companies. This means that the cost of this added protection will not have to be borne by the Californians in their insurance premiums. The program will be funded entirely with existing tax revenues.

By allowing insurance companies to deduct these assessments from their state tax bills, we can avoid the situation which would force solvent insurance companies and their policyholders to pay for the business

losses of their competitors. The state government has the regulatory power to prevent insolvencies, and it is only fair that the burden for protecting policyholders from insolvencies ultimately be assumed by the state. This also will encourage increased vigilance by the responsible state agencies.

Proposition 3 is based on model legislation approved by the National Association of Insurance Commissioners which is now in effect in many other states. A guarantee fund program already exists in California for fire and auto insurance. Proposition 3 would simply make it possible for the Legislature to extend this program to all policies and fund it in a manner which does not add to consumer costs.

California is fortunate to have a strong and healthy insurance industry. Proposition 3 would simply provide a state guarantee which would stand behind insurance policies, just as the federal government stands behind bank and savings deposits.

Your vote on Proposition 3 will determine whether there will be an insurance guarantee fund for all insurance issued to Californians. The choice is yours.

**VOTE "YES" ON PROPOSITION 3!**

**DANIEL E. BOATWRIGHT**  
*Member of the Assembly, 10th District*

**ROBERT G. BEVERLY**  
*State Senator, 27th District*

**W. CARL JONES**  
*President, Congress of California Seniors*

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No rebuttal to argument in favor of Proposition 3 was submitted

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**Moving? Call the County Clerk or  
Registrar of Voters of your new  
county to reregister**

## Argument Against Proposition 3

There is no clear evidence that a constitutional amendment is needed to protect consumers who buy insurance policies from financially unsound insurance companies. The vast majority of insurance companies doing business in California are sound and have more than adequate financial resources.

Under Proposition 3, new funds could be established by the Legislature to pay off policyholders in the event that their insurance company becomes insolvent. The money for these funds would come from other insurance carriers, but could then be deducted from insurance premiums taxes. This could potentially reduce the amount of money the state has to spend on various services such as education and health.

As it stands now, there is a fund which covers fire and auto insurance insolvencies, but the cost is borne by casualty companies licensed to do business in California. Although life and health insurance companies are not covered under the existing system, those doing business in California are particularly strong, and their policyholders shouldn't have to worry about insolvencies. The poorly managed insurance companies should

not be subsidized by the better managed companies. Such a situation places a premium on mismanagement and rewards inefficiency.

The fact is that the State Insurance Department is responsible for making sure that every insurance company doing business in California has sufficient resources to meet its obligations. As long as this department is doing its job, there should be no need for the state to create new guarantee funds. The best approach is effective regulation, not an insurance guarantee fund which could affect state tax revenues.

Insurance regulation is a technical subject which shouldn't be a part of California's Constitution. Proposition 3 does not require the Legislature to set up guarantee funds, although it would undoubtedly result in their establishment.

If you agree that we don't need more insurance guarantee funds at this time, please vote NO on Proposition 3.

**JOHN FRANCIS FORAN**  
*State Senator, 6th District*

## Rebuttal to Argument Against Proposition 3

Proposition 3 will make possible an additional layer of protection for every life and disability insurance policy issued in California without any additional cost to the consumer.

California has a strong and healthy insurance industry, well regulated by state law. Passage of Proposition 3 will enable the state to stand behind life and disability insurance policies issued here, just as the federal government stands behind deposits in banks and savings and loan associations.

Here's what we have to gain:

- A state guarantee behind every insurance policy issued in California.
- Assurance that consumers who buy insurance from solvent carriers won't have to foot the bill for companies which may become bankrupt.

- Incentive for the state to make sure that companies allowed to do business in California are fully solvent and remain so.
- Conformity with legislation already enacted in most other states.

Proposition 3 can help strengthen our insurance protection at no additional cost to the taxpayer or the consumer:

We urge you to vote YES on Proposition 3.

**DANIEL E. BOATWRIGHT**  
*Member of the Assembly, 10th District*

**ROBERT G. BEVERLY**  
*State Senator, 27th District*

**W. CARL JONES**  
*President, Congress of California Seniors*

## Official Title and Summary Prepared by the Attorney General

**TAXATION. REAL PROPERTY. PROPERTY ACQUISITION BY TAXING ENTITY. LEGISLATIVE CONSTITUTIONAL AMENDMENT.** Article XIII A places a limitation on ad valorem taxes on real property. The adoption of this amendment would permit an increase in such taxes or special assessments to pay for interest and redemption charges on an indebtedness, approved by two-thirds of the voters, for the acquisition or improvement by the taxing entity of real property and tangible personal property necessary for its use. Also authorizes an increase in such taxes or special assessments to be used in connection with refunding previously approved indebtedness issued in accordance with law. Fiscal impact on state and local governments: To extent new indebtedness is created, ad valorem property taxes on real property could rise. A rise in property taxes could increase state costs for reimbursements to local entities. For other possible fiscal impacts see analysis by Legislative Analyst in Ballot Pamphlet.

## FINAL VOTE CAST BY THE LEGISLATURE ON SCA 26 (PROPOSITION 4)

Assembly—Ayes, 65  
Noes, 9

Senate—Ayes, 29  
Noes, 4

## Analysis by the Legislative Analyst

**Background:**

Article XIII A, which was added to the California Constitution by Proposition 13 on June 6, 1978, limits (effective July 1, 1978) the tax rate that may be levied for purposes of property taxation. The tax rate may not exceed 1 percent of the full cash value of the property being taxed. However, Article XIII A provides an exception to the 1-percent limitation for property taxes or special assessments that are levied to pay for *any* indebtedness approved by the voters *prior* to July 1, 1978. Thus, under the Constitution property tax rates may not be raised above the 1-percent limit to pay for interest or redemption charges on debt, such as that represented by bonds, approved *on or after* July 1, 1978.

Article XIII A reduces the ability of local governments to finance the construction or acquisition of property by reducing local governments' ability to issue general obligation bonds. A general obligation bond issued by a local agency is secured by the ability of that local agency to levy property taxes necessary to pay off the bond. Because Article XIII A eliminated the authority of local government to levy an unlimited property tax rate to pay off debts approved by the voters on or after July 1, 1978, this provision of the Constitution, as a practical matter, prevents local governments from issuing new general obligation bonds to finance capital improvements.

**Proposal:**

This constitutional amendment would do two things:

(1) It would exempt from the 1-percent maximum property tax rate limit property taxes imposed to pay off certain types of indebtedness approved by the voters *after* June 30, 1978, by two-thirds of the votes cast on the proposition. That is, property tax rates could be raised above existing levels to pay off certain types of new debt, provided that the new debt has been approved by two-thirds of the voters voting on the propo-

sition. The types of debt for which this exemption would be available are:

- Debt incurred in order to pay for acquiring or improving real property, and
- Debt incurred in order to pay for tangible personal property necessary to the use of that real property.

Real property includes land and improvements, improvements being buildings and structures. Personal property includes all property that is not real property, such as furnishings.

(2) It would exempt from the 1-percent maximum property tax rate limit those taxes levied to refinance any existing debt. Generally, debt is refinanced in order to obtain lower interest rates.

If approved by the voters, this measure would, as a practical matter, permit local governments to again issue general obligation bonds.

**Fiscal Effect:**

This measure could affect state and local revenues and expenditures in several different ways.

**Local Effects.** The amendment would affect the revenues and expenditures of local governments and school districts in two ways. First, to the extent that the voters approve new debt issues, local agencies would find it easier to raise funds for acquiring or improving property. This may result in the acquisition or improvement of facilities that otherwise would not take place. Second, to the extent that local agencies are issuing bonds other than general obligation bonds to finance property acquisitions and improvements, this measure could significantly reduce these agencies' borrowing costs by making possible the issuance of general obligation bonds. This is because general obligation bonds usually can be sold at interest rates that are lower than the rates charged on other types of borrowing.

**State Effects.** This proposal could affect state reve-



nues and expenditures in a number of different ways. First, the state could incur higher costs in reimbursing local agencies under various state programs, such as the homeowners' property tax relief program. This is because the state's costs to reimburse local agencies for property tax revenue losses associated with a number of property tax exemptions increase whenever property tax rates increase. By permitting local voters to approve an increase in property tax rates above the 1-percent maximum, this amendment could result in an increase in state costs.

Second, the state might experience lower costs in aiding local agencies, particularly schools, to finance their capital improvements. To the extent that this measure resulted in increased availability of local funding for capital improvements, there might be a reduction in state expenditures for these purposes.

Third, the state's cost of borrowing funds for capital projects could be *increased* if voter approval of local bond issues resulted in higher overall interest rates on state bonds. This increase would probably be relatively minor.

Finally, state income tax revenues could be reduced (1) by an unknown but probably minor amount, as investors shift from taxable investments to nontaxable local general obligation bonds, the sale of which is made possible by this measure, and (2) by an unknown amount to the extent that the voters approve increases in property taxes that result in larger deductions for property tax payments on state income tax returns.

The impact of this measure on state and local government revenues and expenditures would depend on the magnitude of additional borrowing approved by the voters.

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### Text of Proposed Law

This amendment proposed by Senate Constitutional Amendment 26 (Statutes of 1980, Resolution Chapter 43) expressly amends the Constitution by amending a section thereof; therefore, existing provisions proposed to be deleted are printed in ~~strikeout type~~ and new provisions proposed to be inserted or added are printed in *italic type* to indicate that they are new.

#### PROPOSED AMENDMENT TO ARTICLE XIII A

SECTION 1. (a) The maximum amount of any ad valorem tax on real property shall not exceed ~~One~~ *one* percent (1%) of the full cash value of such property. The one percent (1%) tax to be collected by the counties and apportioned according to law to the districts within the counties.

(b) The limitation provided for in subdivision (a) shall not apply to ad valorem taxes or special assessments to pay the interest and redemption charges on any indebtedness approved by the voters prior to the time this section becomes effective *or thereafter to pay interest and redemption charges on indebtedness for acquiring or improving real property and acquiring tangible personal property necessary to the use of such real property, provided that such indebtedness is approved by two-thirds of the votes cast by the voters voting upon a proposition to approve such indebtedness. The limitation provided for in subdivision (a) shall not apply to ad valorem taxes or special assessments to pay the interest and redemption charges on any indebtedness issued in accordance with law to refund any of the foregoing.*

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### Argument in Favor of Proposition 4

PROPOSITION 4 is an improvement to Proposition 13 which is good for local taxpayers and local control. It gives voters and taxpayers the ability to approve or disapprove local general obligation bond issues. Most importantly, a yes vote on Proposition 4 will save tax dollars!

PROPOSITION 4 allows local voters, by a two-thirds vote, to permit the use of property taxes to repay general obligation bonds for the construction of necessary public projects, such as fire and police stations and water facilities.

Local taxpayers will save millions of dollars on these essential public projects because general obligation bonds, whose payment is guaranteed by property taxes, have a lower interest rate than any other means of local financing.

But PROPOSITION 4 was carefully written with property taxpayers in mind to provide important, stronger-than-ever safeguards:

- (1) Local voters must approve bond financing by 66 $\frac{2}{3}$  percent of those voting.
- (2) Projects which can be financed by bonds are limited to

purchase of real property, construction of facilities and purchase of equipment necessary to their use. Not one cent can go for salaries, pensions, or day-to-day operating costs.

Your "yes" vote on PROPOSITION 4 will allow the local voters and taxpayers who pay the bills to make their own decisions on financing public projects at the lowest possible cost. In every case a two-thirds vote of the local electorate is required. It's in the spirit of PROPOSITION 13!

**WILLIAM A. CRAVEN**  
*State Senator, 38th District*

**KIRK WEST**  
*Executive Vice President*  
*California Taxpayers' Association*

**CAROL HALLETT**  
*Member of the Assembly, 29th District*  
*Assembly Republican Leader*

### Rebuttal to Argument in Favor of Proposition 4

The proponents talk about "fire and police stations and water facilities." If Proposition 4 were limited to such expenditures, we would support it. But it isn't.

Even if "tangible personal property" were limited to long-lasting, well-maintained items like fire engines, we would support this measure. But it isn't.

The proponents tell us "not one cent can go for . . . day-to-day operating costs." But it certainly can and will—not just one cent, but, no doubt, many tens or hundreds of thousands of dollars. Proposition 4 contains no restriction whatsoever as to the purchase of equipment and supplies such as we mentioned before.

Local agencies and school districts are virtually certain to use the opportunities this proposition offers to persuade their constituents to accept inappropriate expenditures—along with necessary expenditures. Voters will receive the promotional material and hear about the sensible expenditures, but they will hear little or nothing about the others. Promotion of this proposition, in fact, is an excellent example of what promoters of bond issues will do: emphasize the need for sensible

capital investments; deemphasize or cover up the intended use of bond money for day-to-day supplies and minor equipment.

Remember, whenever a local agency issues general obligation bonds, its bonding capacity for the future is diminished, and the property tax burden is increased. That's why we need a much more strictly worded proposition, one that won't permit use of bond money for current expenses, one which will reserve bond money for genuine, long-term capital outlay.

**VOTE NO ON PROPOSITION 4.**

**JOHN W. HOLMDAHL**  
*State Senator, 8th District*  
*Chairman, Senate Committee on Revenue and Taxation*

**H. L. RICHARDSON**  
*State Senator, 25th District*  
*Member, Senate Committee on Revenue and Taxation*

**RICHARD ROBINSON**  
*Member of the Assembly, 72nd District*

## Argument Against Proposition 4

Do you believe bonds should be used to equip television studios with cameras and expensive lighting equipment? Should bond money be used to purchase poshy desks for administrators? Well, this proposition makes it possible.

Proposition 4 is a wolf in sheep's clothing. Its avowed purpose is to permit voter-approved increases in property taxes to help finance necessary capital improvements (schools, office buildings, etc.), but it goes much further. We supported this concept when limited to financing capital improvements. But we opposed it after amendments permitting local agencies to borrow money to purchase "tangible personal property." That phrase can mean anything: toilet paper, pencils, typewriters, brooms, baseballs, water coolers, paper towels, soap, paint, lawnmowers, trash cans, garden hoses, etc.

While necessary, **SUCH ITEMS SHOULD NOT BE PURCHASED THROUGH THE USE OF LONG-TERM FINANCING.** It is one thing to use long-term financing (up to 40 years) to finance construction of buildings having a useful life of equivalent duration. But it is bad fiscal policy to use such financing to purchase supplies with extremely limited useful lifespans.

Borrowed money must be repaid—and with interest, of course.

Further, the proposition contains **NO LIMITATION** on how much money borrowed by the sale of bonds can be spent for personal property. While we believe most public officials would limit such spending, the **OPPORTUNITY** this proposition presents is certain to **TEMPT** local officials to rely on long-term financing rather than on general operating funds to purchase such items. **WE SHOULD NOT GIVE ANYONE THE ABILITY TO BORROW AGAINST THE FUTURE** to acquire items, of limited usefulness, which *should be purchased* with **TODAY'S** money. Moreover, this proposition would seriously **DIMINISH** the **ACCOUNTABILITY** of local

officials by letting them postpone today's fiscal problems to the uncertain future.

**WHY WORRY ABOUT THIS PROPOSITION?** The answer is because what happened in New York City could happen here. That great city would have gone bankrupt without federal assistance during its continuing fiscal crisis. Long-term financing was used to pay current obligations of all sorts. New York borrowed money against the future to avoid confronting its current fiscal problems. The problems, far from being eliminated or resolved, were postponed and made much, much worse. And when the "chickens came home to roost," to whom did New York City turn for help? To the federal and state governments.

We don't want the same situation in California. Except for long-lasting capital improvements, we believe it dangerous to **TEMPT** local agencies with the **OPPORTUNITY** to **MORTGAGE THE FUTURE** to pay today's bills. If paying today's bills is a problem, it should be solved *today*, not *postponed* for as much as 40 years, when it will be even harder to deal with. A person might sign a 30- or 40-year loan to purchase a house. **BUT WOULD YOU SIGN A 20-, 30-, OR 40-YEAR LOAN TO BUY A ROLL OF TOILET PAPER, A TYPEWRITER, OR EVEN AN AUTOMOBILE?**

Neither would we, and that is why we say **VOTE NO** on **PROPOSITION 4.**

**JOHN W. HOLMDAHL**  
*State Senator, 8th District*  
*Chairman, Senate Committee on Revenue and Taxation*

**H. L. RICHARDSON**  
*State Senator, 25th District*  
*Member, Senate Committee on Revenue and Taxation*

**RICHARD ROBINSON**  
*Member of the Assembly, 72nd District*

## Rebuttal to Argument Against Proposition 4

The argument against Proposition 4 is misleading in failing to mention that local voters must approve any proposed bond issue by a two-thirds vote.

Voted bond issues for buildings or other capital improvements have always included provisions for furnishings and equipment which are legally classified as personal property but are necessary to the improvement's use. How useful is a school building without a provision for desks and chairs? What good is a fire station without a fire engine?

A two-thirds vote is difficult to achieve for any bond issue. It is hard to imagine local voters approving the sale of bonds for the purpose of purchasing pencils or toilet paper, as opponents contend. Voters and taxpayers should be given credit for more intelligence than that.

Opponents further misstate the case by contending that a New York-type fiscal crisis could arise in California. New York City financed salaries and operations with borrowed money. Such has not been the case in California in the past, and Proposition 4 does not suddenly make this possible. In fact,

Proposition 4 makes general obligation bond use more restrictive than it was before Proposition 13.

Furthermore, New York City indebtedness was not approved by the voters, but Proposition 4 requires that the voters by a two-thirds vote approve any general obligation borrowing.

Proposition 4 was written to give local voters and taxpayers a greater voice in funding capital improvements at the lowest cost possible.

**WILLIAM A. CRAVEN**  
*State Senator, 38th District*

**KIRK WEST**  
*Executive Vice President*  
*California Taxpayers' Association*

**CAROL HALLETT**  
*Member of the Assembly, 29th District*  
*Assembly Republican Leader*

## Official Title and Summary Prepared by the Attorney General

**TAXATION. REAL PROPERTY VALUATION. DISASTERS, SEISMIC SAFETY, CHANGE IN OWNERSHIP. LEGISLATIVE CONSTITUTIONAL AMENDMENT.** Amends Article XIII A, Section 2, to provide that in valuing real property: "newly constructed" shall not include reconstruction of comparable improvements after a disaster, as defined by Legislature, or reconstruction or improvement to comply with seismic safety laws; and "change in ownership" shall not include the acquisition of comparable real property as a replacement for property damaged or destroyed as a result of such a disaster or if the person acquiring the property was displaced by eminent domain proceedings, acquisition by a governmental agency, or inverse condemnation. Fiscal impact on state and local governments: Local—Unknown, but probably significant, loss of property tax revenues. Moderate increase in assessment costs. State—Unknown additional costs in aid to local school districts. Unknown increase in income tax revenues.

### FINAL VOTE CAST BY THE LEGISLATURE ON ACA 3 (PROPOSITION 5)

Assembly—Ayes, 77  
Noes, 0

Senate—Ayes, 38  
Noes, 0

### Analysis by the Legislative Analyst

#### Background:

Article XIII A was added to the California Constitution by Proposition 13 on June 6, 1978. That article provides that real property (land and buildings) shall be reappraised for property tax purposes only when purchased, newly constructed, or a "change in ownership" has occurred. Otherwise, the full cash value of the property may be increased for property tax purposes by not more than 2 percent per year.

Article XIII A also specifies that a building shall not be deemed to be "newly constructed" if it has been reconstructed after being damaged by a disaster, as declared by the *Governor*, provided that the value of the reconstructed property is comparable to the value of the property prior to the disaster. If, instead of reconstructing a damaged building, the property owner acquires a replacement property following a disaster, the replacement property *is* subject to reappraisal under the Constitution.

A number of federal, state, and local laws require owners to make improvements to property for seismic (earthquake) safety purposes under certain circumstances.

Finally, current law provides for the acquisition of property by governmental agencies through purchase or condemnation (eminent domain) and requires that the property owner be compensated if the owner's property is acquired through condemnation. Also, current law permits a property owner to sue the government for compensation if the owner believes that the property has been "taken" or damaged by governmental action. A successful suit of this nature results in a finding that is called "inverse condemnation."

#### Proposal:

This measure affects both the "new construction" and "change in ownership" provisions of Article XIII A.

With respect to new construction, the measure does two things:

(1) It provides that real property reconstructed after a disaster, as defined by the *Legislature*, shall not be deemed to be "newly constructed." Thus, in addition to property reconstructed after a disaster declared by the Governor, property reconstructed after a disaster, as defined by the Legislature, would not be considered new construction (and thus not subject to reappraisal), provided that the reconstructed property is comparable in value to the original property before it was damaged.

(2) It provides that real property that is reconstructed to comply with seismic safety laws shall not be deemed to be "newly constructed." Thus, reconstruction of property to comply with seismic safety laws would not, by itself, lead to a reappraisal of that property for property tax purposes. The Legislature could define "seismic safety" for the purposes of this provision.

With respect to change in ownership, this measure does two things:

(1) It provides that the acquisition of real property as a replacement for property damaged or destroyed by a disaster, as defined by the Legislature, would not be considered a change in ownership, provided that the replacement property is comparable.

(2) It provides that the acquisition of real property to replace property from which someone has been displaced as a result of eminent domain, purchase by a

government agency, or inverse condemnation would not be considered a change in ownership, provided that the replacement property is comparable. This modification of the change in ownership provisions of Article XIII A would apply to any property acquired after March 1, 1975. Thus, acquisition of any property after that date for these reasons may not result in reappraisal of the property, provided the replacement property is comparable.

"Comparable property," with respect to the change of ownership provision, is defined by the measure as property which is similar in size, utility, and function or which conforms to minimum federal or state regulations concerning the relocation of persons displaced by governmental actions.

**Fiscal Effect:**

This measure would result in an unknown, but proba-

bly significant, loss of property tax revenues to local governments. Also, county assessors and tax collectors would probably experience minor to moderate administrative costs to revise assessments of properties affected by this measure.

State expenditures and revenues would be affected by this amendment in two ways. First, the state would incur additional, but unknown, costs under the main program providing aid to local school districts. This is because, under existing law, the state would have to replace any local property tax revenues which are lost as a result of this measure. Second, state income tax revenues would increase by an unknown amount. This is because property tax payments are deductible from taxable income on state income tax returns, and a reduction in property tax payments tends to increase the amount of income subject to state taxes.

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**Text of Proposed Law**

This amendment proposed by Assembly Constitutional Amendment 3 (Statutes of 1980, Resolution Chapter 45) expressly amends the Constitution by amending a section thereof; therefore, new provisions proposed to be added are printed in *italic type* to indicate that they are new.

**PROPOSED AMENDMENT TO  
ARTICLE XIII A**

First—That subdivision (c) is added to Section 2 of Article XIII A, to read:

*(c) For purposes of this section, the term "newly constructed" shall not include real property which is reconstructed after a disaster, as defined by the Legislature, where the fair market value of such real property, as reconstructed, is comparable to its fair market value prior to the disaster, nor shall it include real property which is reconstructed or improved to comply with applicable laws relative to seismic safety, as defined by the Legislature.*

Second—That subdivision (d) is added to Section 2 of Article XIII A, to read:

*(d) For purposes of this section, the term "change in*

*ownership" shall not include the acquisition of real property as a replacement for comparable property if: (1) the property replaced was damaged or destroyed as a result of a disaster, as defined by the Legislature; or (2) the person acquiring the real property has been displaced from the property replaced by eminent domain proceedings, by acquisition by a governmental agency, or governmental action which has resulted in a judgment of inverse condemnation. The real property acquired shall be deemed comparable to the property replaced if it is similar in size, utility, and function, or if it conforms to minimum federal or state regulations governing the relocation of persons displaced by governmental actions. The provisions of this paragraph shall be applied to any property acquired after March 1, 1975.*

Third—That subdivision (e) is added to Section 2 of Article XIII A, to read:

*(e) The provisions of this section apply only to exemptions from real property assessment and do not limit the existing authority of the Governor to declare disasters or to provide emergency services to any area pursuant to law.*

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**Apply for Your Absentee Ballot Early**

## Argument in Favor of Proposition 5

Proposition 5 would prevent property tax increases when families or businesses are forced to relocate or reconstruct because of events over which they had no control.

Under the current provisions of the California Constitution, individuals and businesses forced to relocate property to make way for public projects or to reconstruct property to meet seismic safety laws are hit by a tax increase as their property is assessed at full current market value.

Proposition 5 would prevent the double penalty of a tax increase after a government-caused relocation or reconstruction. No longer would these events consti-

tute a "change of ownership" or "new construction" which triggers a higher assessment and more taxes.

Proposition 5 was passed unanimously by the Legislature as a means of ensuring greater tax equity in California. We urge your "Yes" vote on Proposition 5.

**JOHN KNOX**

*Democratic Member of the Assembly, 11th District  
Speaker pro Tempore of the Assembly*

**KIRK WEST**

*Executive Vice President  
California Taxpayers' Association*

**PAUL PRIOLO**

*Republican Member of the Assembly, 38th District*

## Rebuttal to Argument in Favor of Proposition 5

Proponents are not telling voters the whole truth.

This measure is a proposal by the Legislature to amend Proposition 13, a constitutional limitation on property taxes approved by voters in 1978.

Proposition 5 would not merely exempt from a higher property assessment and more taxes those individuals and businesses forced to relocate "to make way for public projects." It would authorize the Legislature to exempt any individual, business or giant corporation that relocates because the previously owned property is even "damaged" by what the Legislature will later define as a "disaster."

Proposition 5 is likewise not restricted to exempting

property that is reconstructed "to meet seismic safety laws." It would authorize the Legislature to exempt any property that is reconstructed after what the Legislature will later define as a "disaster."

This measure goes too far. It would allow the Legislature to exempt from higher property taxes virtually any individual or business with an effective lobbyist in Sacramento. And when some persons pay less in taxes, government finds a way to make up the loss by TAXING EVERYONE ELSE THAT MUCH MORE.

**GARY WESLEY**

*Attorney at Law*

**To apply for an absentee ballot  
contact your County Clerk or  
Registrar of Voters early**

**Argument Against Proposition 5**

Proposition 13, approved by voters in 1978, has had the beneficial effect of curtailing the rapid rise in property taxes. However, even many supporters of Proposition 13 concede that it contains a serious flaw.

The problem is that Proposition 13 freezes property assessments at their 1975 level, but allows property to be reassessed when it is "*purchased, newly constructed, or a change in ownership has occurred after the 1975 assessment.*"

As a result of this reassessment each time property changes hands, new owners face property taxes much higher than those imposed upon their neighbors who own property of equal value but have held that property for a longer period of time.

In addition, because industrial property is sold far less frequently than is residential property, this provision in Proposition 13 results in a gradual but massive shift of the property tax burden from industrial to residential owners and renters.

Rather than offering voters the opportunity to cor-

rect this flaw, the Legislature is proposing in this measure to retain the basic inequity, but exempt a small number of individuals from its unfair tax burden.

The individuals singled out for special treatment are those who relocate because of government action or because their property is "damaged" or destroyed by what the Legislature will later define as a "disaster."

This measure is both overinclusive and underinclusive. It goes too far in allowing the Legislature to define just which individuals ought to be able to purchase a new piece of property without facing a higher reassessment. On the other hand, the measure does not go far enough because it leaves intact the basic flaw in Proposition 13.

A "NO" vote will tell the Legislature that voters want the opportunity to correct Proposition 13 and that they do not want poorly written, piecemeal revisions written into our State Constitution.

GARY WESLEY  
*Attorney at Law*

**Rebuttal to Argument Against Proposition 5**

The argument of the opponent misses the point.

The question raised by Proposition 5 is whether a taxpayer who is forced to move should have an increased assessment. Proposition 5 says, "No, that isn't fair."

JOHN KNOX  
*Democratic Member of the Assembly, 11th District  
Speaker pro Tempore of the Assembly*

KIRK WEST  
*Executive Vice President  
California Taxpayers' Association*

PAUL PRIOLO  
*Republican Member of the Assembly, 38th District*

**You must reregister whenever you move**

## Official Title and Summary Prepared by the Attorney General

**NUMBER OF JURORS IN CIVIL CASES. LEGISLATIVE CONSTITUTIONAL AMENDMENT.** Amends Article I, Section 16, to authorize Legislature to reduce required size of juries in civil cases in municipal or justice court. Legislature may reduce juries in these courts from 12 persons to 8 persons, or a lesser number agreed on by the parties in open court. Fiscal impact on state and local governments: None.

## FINAL VOTE CAST BY THE LEGISLATURE ON SCA 14 (PROPOSITION 6)

Assembly—Ayes, 60  
Noes, 15

Senate—Ayes, 27  
Noes, 9

## Analysis by the Legislative Analyst

**Background:**

Historically, California courts have adopted the common law rule that a jury must consist of 12 persons. The California Constitution does not specify the number of persons comprising a jury, but it does provide that in civil and misdemeanor cases the jury *may* consist of 12 or a smaller number of persons as agreed on by the parties in open court.

The California Constitution permits waiver of a jury trial in any criminal case with the consent of the prosecution and the defense (criminal cases tried by juries may be classified as felonies or misdemeanors). The waiver agreement must be expressed in open court by the defendant and the defendant's attorney. The courts have held that a felony trial which begins with 12 jurors may continue with less than 12 jurors with the consent of the defendant and his or her attorney.

The municipal and justice courts generally handle misdemeanor cases, and civil cases wherein the amount of the claim is \$15,000 or less. The superior courts have jurisdiction over felony cases, and civil cases involving claims exceeding \$15,000.

**Proposal:**

This measure would provide that:

1. In civil cases in superior courts, the jury must consist of 12 persons, or of a smaller number agreed on by the parties in open court.
2. In civil cases in the municipal and justice courts, the Legislature may provide that the jury shall consist of eight (rather than 12) persons, or of a smaller number agreed on by the parties in open court. Therefore, if the Legislature so provides, the effect of this provision would be a reduction in the size of a jury in civil cases before these courts to eight persons unless the parties agreed in open court to a jury of less than eight members.
3. In felony cases the jury shall consist of 12 persons.

**Fiscal Effect:**

The cost of juries in civil cases is paid by the litigants. Therefore, this measure would have no significant state or local fiscal impact.

**Be sure to vote on November 4, 1980**



## Text of Proposed Law

This amendment proposed by Senate Constitutional Amendment 14 (Statutes of 1980, Resolution Chapter 47) expressly amends the Constitution by amending a section thereof; therefore, existing provisions proposed to be deleted are printed in ~~strikeout type~~ and new provisions proposed to be inserted or added are printed in *italic type* to indicate that they are new.

### PROPOSED AMENDMENT TO ARTICLE I

SEC. 16. Trial by jury is an inviolate right and shall be secured to all, but in a civil cause three-fourths of the jury may render a verdict. A jury may be waived in a criminal cause by the consent of both parties expressed in open court by the defendant and the defendant's counsel. In a civil cause a jury may be waived by the consent of the parties expressed as prescribed by statute.

In civil causes ~~and cases of misdemeanor~~ the jury ~~may~~ *shall* consist of 12 *persons* or a lesser number agreed on by the parties in open court. *In civil causes in municipal or justice court the Legislature may provide that the jury shall consist of eight persons or a lesser number agreed on by the parties in open court.*

*In criminal actions in which a felony is charged, the jury shall consist of 12 persons. In criminal actions in which a misdemeanor is charged, the jury shall consist of 12 persons or a lesser number agreed on by the parties in open court.*

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**If you have any questions on voting  
call your County Clerk or  
Registrar of Voters**

### Argument in Favor of Proposition 6

This constitutional amendment would permit the Legislature to provide by statute that civil juries in municipal and justice courts shall consist of eight persons or a lesser number agreed upon by the litigants. The present requirement of a 12-person jury in criminal cases is not affected by this proposal.

Upon the passage of this amendment it is expected that the Legislature will set up an experimental program for a period of several years to determine whether or not to make it permanent. By this procedure the administration of justice will be streamlined and the cost of litigation to the parties reduced, but the quality of justice will remain the same. Reducing the number of jurors will permit a quicker selection process and the eight jurors will take less time to decide cases.

By speeding up the procedure, more cases can be tried, and greater participation in the process of government afforded to more citizens; yet, the quality control of a three-fourths

verdict (6 out of 8 instead of the current 9 out of 12) is preserved.

Thirty-eight states and most U.S. district courts already use juries which consist of less than 12 members; in fact, such juries are frequently used in major civil matters and criminal cases. There is no evidence that the quality of justice has deteriorated in those courts.

Vote yes on Proposition 6 to streamline trial procedures and to reduce court costs—without sacrificing the quality of justice.

**ROBERT G. BEVERLY**

*State Senator, 27th District*

**DAVID EAGLESON**

*Assistant Presiding Judge, Los Angeles Superior Court  
Immediate Past President, California Judges Association*

**MARZ GARCIA**

*State Senator, 10th District*

### Rebuttal to Argument in Favor of Proposition 6

This proposal to "streamline" the lower courts makes no sense *except* as a first step toward abolishing your right to jury trial. There is no problem getting to trial promptly in municipal and justice courts once parties are ready for trial. The delay and congestion that you read about exists in a few superior courts, *not* in the lower courts. Yet this proposal applies *only* to the lower courts.

This proposal *WONT* shorten trials in municipal and justice courts. Experience demonstrates that it takes as long to select a smaller jury as to select a jury of 12 and *both large and small juries take the same amount of time* to decide cases.

This proposal *WONT* maintain the quality of justice. Evidence indicates that, as jury size is reduced, verdicts which affect your rights and property become less reliable and less consistent.

This proposal *WILL* deprive you of your constitutional right to a jury of 12 in cases up to \$15,000 while preserving that right for those with larger claims and for criminal defendants.

The statement by proponents that "most U.S. district courts already use juries which consist of fewer than 12 members" is *misleading!* Many U.S. district courts use 12 jurors; many others *permit* either the parties or the court to decide the number of jurors. In contrast, this proposal allows the Legislature to *force* you to accept a jury of eight whether you agree or not.

**DON'T LET THEM STREAMLINE YOUR RIGHTS AND THE JURY OUT OF EXISTENCE! VOTE NO ON PROPOSITION 6.**

**WILLIE BROWN JR.**

*Member of the Assembly, 17th District  
Majority Floor Leader*

**KENNETH HAHN**

*Los Angeles County Supervisor, 2nd District*

**WILLIAM H. LALLY**

*Judge of the Superior Court, County of Sacramento*

**Study each issue carefully**

## Argument Against Proposition 6

### **ABOLISHES HISTORIC CONSTITUTIONAL RIGHT**

This proposition abolishes your constitutional right to a jury of 12 in civil cases in municipal and justice courts. It gives the Legislature a "blank check" to experiment with this historic right to save a small amount of money and relieve judges of some work.

### **MINIMAL SAVINGS DO NOT JUSTIFY SACRIFICING CONSTITUTIONAL RIGHTS**

Assertions that significant cost savings will result are purely speculative and are directly contradicted by a study of the results of smaller juries in the federal court system. Judicial Council of California statistics indicate annual cost savings of only \$83,000 statewide. This minimal cost saving does not justify sacrificing a constitutional right when other methods exist to achieve greater judicial economy and efficiency.

### **ELIMINATES CONSTITUTIONAL FREEDOM TO CHOOSE**

You *already* have the constitutional right to agree to a jury of fewer than 12 persons. This proposition permits the Legislature to *force* you to accept a jury of eight whether you agree or not.

### **CREATES SYSTEM OF SECOND-CLASS JUSTICE**

This proposition makes the quality of justice to which you are entitled depend on the size of your claim. The "little guy" whose claim is less than \$15,000 will be treated as a second-class citizen, entitled only to a jury of eight. Those with larger claims, including big business and commercial interests, and criminal defendants, will continue to have the right to a jury of 12.

### **12—A BETTER CROSS SECTION OF THE COMMUNITY**

The wisdom of 12 people, collectively applying their experience and common sense, is greater than that of only eight and more fairly represents the community. A jury of 12 allows more complete recall of testimony, more different points of view to be expressed and insures greater ability to over-

come the biases of individual members and obtain a just verdict.

### **FULLER CITIZEN PARTICIPATION INCREASES ACCOUNTABILITY OF SYSTEM**

Cutting jury size to eight drastically reduces the number of citizens able to serve as jurors and to share in this important community responsibility. We should be encouraging more, not less, citizen participation in our system of justice. This will insure that the system remains accountable to us through our decisions as jurors.

### **SMALLER JURIES THREATEN FAIRNESS OF DECISIONS AFFECTING YOUR RIGHTS AND PROPERTY**

Numerous scientific studies show that decisions of smaller juries are less reliable and consistent than decisions of 12-member juries. This means decisions of eight-person juries affecting your rights and property will not be as dependable and as fair as they have been. The quality of justice should not be jeopardized to save the courts a little money and make work a little easier for judges.

### **NEXT STEP—ABOLITION OF JURIES**

If this proposition passes, the next step will be an effort to eliminate your right to jury trial by arguing that it's cheaper not to use juries. Many judges supporting this proposition are convinced that *they* can make better decisions than 8 or 12 citizens. Protect your right to participate fully in our system of justice and reject this attack on the jury system. Vote **NO** on Proposition 6.

**WILLIE BROWN JR.**  
*Member of the Assembly, 17th District*  
*Majority Floor Leader*

**KENNETH HAHN**  
*Los Angeles County Supervisor, 2nd District*

**WILLIAM H. LALLY**  
*Judge of the Superior Court, County of Sacramento*

## Rebuttal to Argument Against Proposition 6

Proposition 6 does not give a "blank check" to the Legislature; it lets the voter decide whether eight-member juries will be used in certain civil cases.

Because a trial's duration and verdict depend upon many factors—such as the case's facts and the persuasiveness of counsel—it is impractical to attach a precise dollar amount to cost savings which will occur under Proposition 6 or to compare verdicts rendered by different juries. However, judges and attorneys who have worked with smaller juries have observed that trials proceed more efficiently, with little, if any, difference in final results. With a resulting decrease in court congestion, jury duty will be fulfilled more quickly. More people from the community will be then able to participate in our judicial process. Additionally, litigants and taxpayers will benefit from significant cost savings.

Legal historians are unable to determine where the requirement of 12 jurors originated. The United States Supreme Court has repeatedly held that juries containing less than 12 members guarantee people's rights under the United

States Constitution. Additionally, studies have shown that such juries encourage greater participation by each juror in the decisionmaking process.

Proposition 6 is designed to lessen court congestion by improving and streamlining the court system while preserving citizens' constitutional rights and to encourage greater community participation in the jury process by shortening the duration of jury duty.

Judges believe in retaining the jury system, but feel it needs to be streamlined.

**ROBERT G. BEVERLY**  
*State Senator, 27th District*

**DAVID EAGLESON**  
*Assistant Presiding Judge, Los Angeles Superior Court*  
*Immediate Past President, California Judges Association*

**MARZ GARCIA**  
*State Senator, 10th District*

## Official Title and Summary Prepared by the Attorney General

**TAXATION. REAL PROPERTY VALUATION. SOLAR ENERGY SYSTEMS. LEGISLATIVE CONSTITUTIONAL AMENDMENT.** Amends Article XIII A, Section 2, to authorize Legislature to provide that, in valuing real property, the term "newly constructed" shall not include the construction or addition of any active solar energy system. Fiscal impact on state and local governments: Depending upon legislation enacted, local property tax revenues could be reduced and state school district aid increased.

## FINAL VOTE CAST BY THE LEGISLATURE ON SCA 28 (PROPOSITION 7)

Assembly—Ayes, 59	Senate—Ayes, 34
Noes, 9	Noes, 0

## Analysis by the Legislative Analyst

**Background:**

Article XIII A was added to the California Constitution by Proposition 13 which was approved by the voters on June 6, 1978. That article provides that real property (that is, land and buildings) shall be reappraised, for purposes of property taxation, when it is purchased, newly constructed, or a change in ownership has occurred. Otherwise, the full cash value of the property may be increased by not more than 2 percent per year.

Solar energy systems utilize energy from the sun for purposes of heating or cooling. These systems may be either "active" or "passive." Active systems are generally those with moving parts, such as water pumps, designed for the collection, storage, and distribution of solar energy for heating or cooling. A number of local jurisdictions currently require the installation of solar energy systems, such as water heaters, on new construction.

**Proposal:**

This amendment authorizes the Legislature to exclude the construction or addition of any *active* solar energy system from the term "newly constructed" for purposes of reappraisal under Article XIII A. Thus, if the Legislature acts to implement this measure, the construction or addition of an active solar energy system to an existing property, by itself, would not lead to a revaluation of the property for purposes of property taxation. The amendment would not affect the valua-

tion of solar energy systems for property taxation purposes when a change in property ownership occurs. In other words, the value of a solar energy system would be reflected in the property appraisal made following the sale of the property to a new owner.

**Fiscal Effect:**

This measure would have no *direct* fiscal effect on state or local governments because it simply *authorizes* the Legislature to alter the definition of new construction with respect to active solar energy systems. Any fiscal effect resulting from this measure would depend on whether and how the Legislature implements its provisions.

If the Legislature acts to exclude the construction or addition of active solar energy systems from the term "newly constructed," local property tax revenues would be reduced by an unknown amount. The magnitude of the revenue loss would depend on how the Legislature implements the measure.

County assessors would probably experience nominal savings in administrative costs because they would no longer revalue properties to which active solar energy systems have been added. These savings would, again, depend on the specific actions taken by the Legislature.

Finally, under existing law state costs for aid to local school districts could be increased by an unknown amount to replace any local property tax revenues lost as a result of this measure.

## Text of Proposed Law

This amendment proposed by Senate Constitutional Amendment 28 (Statutes of 1980, Resolution Chapter 48) expressly amends an existing section of the Constitution by adding a subdivision thereto; therefore, new provisions proposed to be added are printed in *italic type* to indicate that they are new.

### PROPOSED AMENDMENT TO ARTICLE XIII A, SECTION 2

*(c) For purposes of subdivision (a), the Legislature may provide that the term "newly constructed" shall not include the construction or addition of any active solar energy system.*

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**Apply early for an absentee ballot:  
Contact your County Clerk or  
Registrar of Voters**

**Argument in Favor of Proposition 7**

The possibility of a crippling energy shortage is perhaps the most serious threat facing California in the 1980's. An energy shortage could bring commerce and transportation to a standstill, throw thousands of Californians out of work, and imperil the health, safety, and livelihood of all citizens in our state. To reduce this dangerous dependence upon expensive and unreliable foreign sources of oil and gas, we must do all we can to develop domestic energy sources as well as promote the commercialization of new and promising alternative technologies.

Proposition 7 will encourage the expansion of an energy technology vital to us all by providing a tax incentive to homeowners and businesses for the installation of solar energy systems. Present law allows the value of a building to be increased anytime someone makes an addition or performs any new construction. Under Proposition 7 the Legislature can exempt solar energy systems from being considered "new construction" for the purposes of increased property taxes.

Everyone benefits from the increased use of solar energy. When a business or individual employs solar technology, energy from conventional sources is freed for consumption by others and our vulnerability to foreign energy supply interruptions is decreased.

Unfortunately, the expansion of solar technology in California has been impeded by the high initial capital costs. In addition, the installation of a solar energy system has often meant an increase in the assessed property value and thus an increase in property taxes. Throughout this state, many homeowners are interested in, or have installed, complete solar space and water heating systems, only to find out that the property tax

collector has taken a large bite out of the expected savings which would be derived by using solar.

In effect, the consumer is getting mixed signals from government. On the one hand the state and federal governments allow an income tax break for installing solar, while on the other hand local government is taxing consumers specifically for adding a solar device. In some cases the added property tax burden can become a significant deterrent to the purchase decision.

We need to take short-term steps to reduce the cost and create a demand for solar energy equipment. Eventually the demand on its own will cut the cost, and tax incentives will no longer be needed. Until then, this property tax exemption coupled with the existing solar income tax credit will provide a small but important encouragement to potential investors in solar energy.

The State Public Utilities Commission has developed a program to retrofit 80 percent of all residential water heaters with solar energy systems. The realization of this goal would save over 21 million barrels of oil per year. That's 20 percent of the current utility consumption rate! However, this goal will never be achieved as long as solar energy is beyond the financial reach of the average taxpayer. Proposition 7 will help reduce that cost and will provide *all* taxpayers with an incentive to invest in solar energy.

**ALFRED E. ALQUIST**  
*State Senator, 11th District*

**PHIL WYMAN**  
*Member of the Assembly, 34th District*

**TOM BRADLEY**  
*Mayor, City of Los Angeles*

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No rebuttal to argument in favor of Proposition 7 was submitted

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**Remember to vote on Election Day  
Tuesday, November 4, 1980**

## Argument Against Proposition 7

This amendment makes a change in Proposition 13. When Proposition 13 was up for a vote, the legislators and the bureaucrats were crying about the 1975-76 tax year cutoff date for appraising real property full cash value. It would cut down the tax take.

Now, they want to grandfather any newly constructed active solar energy system under the 1975-76 full cash value.

While this amendment proposal may seem innocuous, it does set a precedent for attempting further ex-

emptions. And the more exemptions there are, the more the property tax load is going to be shifted to existing homeowners.

As an incentive to construction of active solar energy systems, the effect of this amendment would be minimal. If active solar energy systems aren't cost effective standing on their own merits—forget it.

Lets's not tolerate any tampering with Proposition 13 PERIOD!

FRED E. HUNTLEY

## Rebuttal to Argument Against Proposition 7

The opposition argument implies that Proposition 7 will interfere with the intent of Proposition 13. In fact, Proposition 7 will have exactly the opposite effect! When California's voters approved Proposition 13 in 1978, they hoped to halt unfair and unjustified hikes in property assessments. Many backers of Proposition 13 now support Proposition 7 because it pursues this same goal. By exempting investments in active solar energy systems from consideration as new construction, Proposition 7 assures that businesses or individuals will not pay higher property taxes simply because they seek to improve energy efficiency by employing solar technology.

The opposition argument also claims that, if solar energy systems are not cost effective on their own, they should not be encouraged. THIS IS EXACTLY WHY

WE NEED TO APPROVE PROPOSITION 7! The threat of reassessment currently places a powerful disincentive against investment in solar systems. At present, businesses and homeowners who make solar investments may see their entire energy savings disappear through higher property taxes. By eliminating these disincentives, Proposition 7 will make the state's solar policy more consistent and encourage the increased development of an essential future energy source.

VOTE YES ON PROPOSITION 7.

ALFRED E. ALQUIST  
*State Senator, 11th District*

PHIL WYMAN  
*Member of the Assembly, 34th District*

**Polls are open from 7 a.m. to 8 p.m.**

## Official Title and Summary Prepared by the Attorney General

**WATER RESOURCES DEVELOPMENT AND PROTECTION. LEGISLATIVE CONSTITUTIONAL AMENDMENT.** Amendment not effective unless SB 200 (1980) enacted and takes effect. SB 200 adds several units to Central Valley Project, including delta peripheral canal, and specifies requirements for these. This amendment provides no statute changing specified provisions of SB 200 protecting existing water rights, water quality, and fish and wildlife resources, or the Delta Protection Act, becomes effective unless approved by electors or, under specified conditions, by two-thirds vote in each legislative house. Restricts appropriations for specified water exportations. Restricts eminent domain proceedings in delta. Establishes Sacramento County venue and sets court preferences for handling actions. Fiscal impact on state and local governments: Undetermined increase in state reimbursement of court costs to Sacramento County and decrease in state travel costs.

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**FINAL VOTE CAST BY THE LEGISLATURE ON ACA 90 (PROPOSITION 8)**

Assembly—Ayes, 56  
Noes, 20

Senate—Ayes, 29  
Noes, 7

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**Analysis by the Legislative Analyst****Background:**

The Department of Water Resources began major construction of the State Water Project in 1960. The department has completed the main features of the project consisting of (1) a dam and reservoir at Oroville which store water in the winter for release into the Sacramento River and the Sacramento-San Joaquin Delta in the summer, (2) a large pumping plant at the southwestern edge of the delta, and (3) an aqueduct system to deliver the water pumped from the delta primarily to the San Joaquin Valley and southern California.

Currently, Sacramento River water flowing into the northern portion of the delta travels through the natural channels of the delta to the pumping plant at the southwestern edge of the delta or moves through the western delta into San Francisco Bay where it prevents the intrusion of sea water into the delta. During the summer, low water flows in the Sacramento River, wastewater entering the delta, and removal of fresh water by the State Water Project and the federal Central Valley Project cause deterioration of water quality, adverse fishery conditions, and intrusion of sea water in the delta.

Construction of a Peripheral Canal has been proposed since 1965 to move Sacramento River water through the eastern delta to the delta pumping plant. The canal would permit the release of high-quality water into the main channels of the delta. These releases are expected to improve water quality in the channels, protect fisheries, flush lower quality waters from the delta and reduce the intrusion of sea water from San Francisco Bay into the delta. The Peripheral Canal would also permit additional high-quality water to be pumped from the delta to meet the state's contract commitments to water users under the State Water

Project. To the extent, however, that more water is pumped from the delta, fresh water flows into San Francisco Bay would be further reduced.

The construction of the Peripheral Canal would, in general, replace the natural conditions in the delta with water flows that would be partially controlled by human decisions. As a consequence, problems have arisen concerning (1) the amount of water that will be released from the Peripheral Canal to maintain fisheries and water quality in the delta, (2) the protection that holders of water rights in the delta will have, and (3) the amount of water that will flow from the delta to flush San Francisco Bay.

During the 1979-80 Regular Session, the Legislature enacted Senate Bill No. 200 to expand the State Water Project, to specifically authorize construction of the Peripheral Canal, and to establish policy for operating conditions in the delta. The Legislature has determined that the decisions involving the delta and the Peripheral Canal, which it has made in the body of law enacted by S.B. 200, should be given constitutional protection. Accordingly, it has submitted this measure to the voters.

**Proposal:**

This measure would restrict the authority of the Legislature to modify the provisions of S.B. 200 pertaining to fish and wildlife resources, water quality, and water rights in the Sacramento-San Joaquin Delta and San Francisco Bay. Specifically, the measure would:

(1) Provide that no statute may revise certain features of the body of law enacted by S.B. 200 unless approved by a majority vote of the electorate voting on the proposition. The Legislature, by a two-thirds vote, may, however, revise these features by enacting laws which do not reduce the protection of the delta or fish



and wildlife. The features affected by this provision are:

- (a) The specified protection of fish and wildlife resources in the Sacramento-San Joaquin Delta, the Suisun Marsh and San Francisco Bay,
  - (b) The manner in which the state will protect existing water rights in the Sacramento-San Joaquin Delta, and
  - (c) The manner in which the state will operate the State Water Project to comply with water quality standards and water quality control plans.
- (2) Provide that no water may be stored or diverted for export into another major basin from any portion of the Wild and Scenic Rivers System unless authorized by an initiative statute approved by the voters, or authorized by a statute passed by a two-thirds vote of the Legislature.
- (3) Provide that no statute may revise the existing Delta Protection Act unless approved by a majority vote of the electorate voting on the proposition. The Legislature may, however, by a two-thirds vote, revise the law if it does not reduce the protection of the delta or fish and wildlife.
- (4) Prohibit any public agency from condemning for

export any water rights which are held for uses within the delta or any contract rights for water or water quality maintenance in the delta.

The measure would also require that legal actions affecting the body of law enacted by S.B. 200 be heard in Sacramento County Superior Court; require, generally, that the actions be brought within one year; and provide for an expedited appeal of the actions in the appellate courts.

#### Fiscal Effect:

There would be an undetermined state cost to reimburse Sacramento County for any additional superior court workload resulting from this measure. However, by limiting the suits to Sacramento County, the measure would also produce savings in travel and related expenses for state employees who otherwise might have to attend trials in other areas of the state. The amount of the reimbursement to Sacramento County would depend on the number of suits filed and their complexity. Any suits which may be taken to a court of appeal or to the Supreme Court could be handled within the regular budgets of those courts.

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### Text of Proposed Law

This amendment proposed by Assembly Constitutional Amendment 90 (Statutes of 1980, Resolution Chapter 49) expressly amends the Constitution by adding an article thereto; therefore, new provisions proposed to be added are printed in *italic type* to indicate that they are new.

#### PROPOSED ADDITION OF ARTICLE X A

##### *Article X A*

##### *Water Resources Development*

**SECTION 1.** *The people of the State hereby provide the following guarantees and protections in this article for water rights, water quality, and fish and wildlife resources.*

**SEC. 2.** *No statute amending or repealing, or adding to, the provisions of the statute enacted by Senate Bill No. 200 of the 1979-80 Regular Session of the Legislature which specify (1) the manner in which the State will protect fish and wildlife resources in the Sacramento-San Joaquin Delta, Suisun Marsh, and San Francisco Bay system westerly of the delta; (2) the manner in which the State will protect existing water rights in the Sacramento-San Joaquin Delta; and (3) the manner in which the State will operate the State Water Resources Development System to comply with water quality standards and water quality control plans, shall become effective unless approved by the electors in the same manner as statutes amending initiative statutes are approved; except that the Legislature may, by statute passed in each house by roll call vote entered in the journal, two-thirds of the membership concurring, amend or repeal, or add to, these provisions if the statute does not in any manner reduce the protection of the delta or fish and wildlife.*

**SEC. 3.** *No water shall be available for appropriation by storage in, or by direct diversion from, any of the components of the California Wild and Scenic Rivers System, as such system exists on January 1, 1981, where such appropriation is for export of water into another major hydrologic basin of the state, as defined in the Department of Water Resources Bulletin 160-74, unless such export is expressly authorized prior to such appropriation by: (a) an initiative statute approved by the electors, or (b) the Legislature, by statute passed in each*

*house by roll call vote entered in the journal, two-thirds of the membership concurring.*

**SEC. 4.** *No statute amending or repealing, or adding to, the provisions of Part 4.5 (commencing with Section 12200) of Division 6 of the Water Code (the Delta Protection Act) shall become effective unless approved by the electors in the same manner as statutes amending initiative statutes are approved; except that the Legislature may, by statute passed in each house by roll call vote entered in the journal, two-thirds of the membership concurring, amend or repeal, or add to, these provisions if the statute does not in any manner reduce the protection of the delta or fish and wildlife.*

**SEC. 5.** *No public agency may utilize eminent domain proceedings to acquire water rights, which are held for uses within the Sacramento-San Joaquin Delta as defined in Section 12220 of the Water Code, or any contract rights for water or water quality maintenance in the Delta for the purpose of exporting such water from the Delta. This provision shall not be construed to prohibit the utilization of eminent domain proceedings for the purpose of acquiring land or any other rights necessary for the construction of water facilities, including, but not limited to, facilities authorized in Chapter 8 (commencing with Section 12930) of Part 6 of Division 6 of the Water Code.*

**SEC. 6.** (a) *The venue of any of the following actions or proceedings brought in a superior court shall be Sacramento County:*

(1) *An action or proceeding to attack, review, set aside, void, or annul any provision of the statute enacted by Senate Bill No. 200 of the 1979-80 Regular Session of the Legislature.*

(2) *An action or proceeding to attack, review, set aside, void, or annul the determination made by the Director of Water Resources and the Director of Fish and Game pursuant to subdivision (a) of Section 11255 of the Water Code.*

(3) *An action or proceeding which would have the effect of attacking, reviewing, preventing, or substantially delaying the construction, operation, or maintenance of the peripheral canal unit described in subdivision (a) of Section 11255 of the Water Code.*

*Continued on page 53*

## Argument in Favor of Proposition 8

Your "Yes" vote on Proposition 8 will help establish safeguards for the economy and the environment of northern California, while ensuring timely deliveries of water the state has long agreed to provide to southern California and to the San Joaquin Valley.

**SAN FRANCISCO BAY AND THE DELTA**

Exports of water from northern California have seriously damaged the fish and wildlife resources of San Francisco Bay and the delta. Farmers in the highly productive delta are worried that water exports may result in a decline in the quality of their water. PROPOSITION 8 would provide constitutional protections for water quality in the bay and delta. This will ensure the restoration of fish and wildlife resources, as well as continued productivity of valuable farmlands.

**SOUTHERN CALIFORNIA AND  
SAN JOAQUIN VALLEY**

Some groups have promised to challenge the construction of recently authorized water facilities, including those designed to replace water that southern California will lose from the Colorado River.

PROPOSITION 8 would require the courts to process any such lawsuits quickly, so that these water facilities may be constructed in a timely manner.

**WILD RIVERS**

California's fisheries, wildlife, and forests are vital to our state and local economies. Substantial damage could result if major water projects are constructed on

the rivers of our north coast which are presently designated by law as wild and scenic rivers.

PROPOSITION 8 would guarantee the right of the people to protect and utilize these resources.

**VOTE YES**

Your "YES" vote on PROPOSITION 8 is a vote to begin a new chapter in our history—a chapter marked by respect for our natural resources and respect for each other's needs.

PROPOSITION 8 is supported by a broad cross section of distinguished Californians, including State Senators H. L. "Bill" Richardson (R-Arcadia) and John Nejedly (R-Walnut Creek); former Governor "Pat" Brown; Earle Blais, Chairman, Metropolitan Water District of Southern California; Assemblyman Howard Berman (D-Los Angeles); Senator James R. Mills (D-San Diego), President pro Tempore of the California Senate; and the Sierra Club.

PROPOSITION 8 is needed by all Californians—north and south. Vote "YES" on PROPOSITION 8.

**EDMUND G. BROWN JR.**  
*Governor*

**LEO T. MCCARTHY**  
*Member of the Assembly, 18th District  
Speaker of the Assembly*

**LAWRENCE KAPILOFF**  
*Member of the Assembly, 78th District*

## Rebuttal to Argument in Favor of Proposition 8

**DON'T BE FOOLED!**

- Proposition 8 establishes no new safeguards for protecting the environment.
- Proposition 8 does not insure timely water deliveries.
- Proposition 8 does nothing to boost the economy.

Vote "NO" on Proposition 8. If it does anything, it guarantees that millions of gallons of the state's fresh water supplies will be washed into the ocean.

**DON'T BE MISLED!** The real beneficiaries of Proposition 8 are a handful of environmental elitists. They conveniently overlook the fact that nearly 40 percent of our water supply will be wasted should this ballot measure pass. They ignore the benefits that result from water projects, such as clean, low-cost hydro power, flood control, recreational opportunities and fish and wildlife enhancement.

Proposition 8 is bad for our economy.

Without new water supplies, up to 600,000 acres of fertile farmland in the San Joaquin Valley alone, producing food for the people, may be forced out of production due to a serious overdraft situation. This could result in a devastating decline in many jobs and in state-wide revenue amounting to an annual loss up to \$1.6 billion.

We all agree that there is a need to respect our natural resources. However, Proposition 8 is an overkill. Existing laws already guarantee protection of our natural resources. We must strike a proper balance between the desires of the elite *few* and the needs of *all* Californians.

Vote "NO" on Proposition 8.

**JOHN E. THURMAN**  
*Member of the Assembly, 27th District*

**FREDERICK J. HERINGER**  
*President, California Farm Bureau Federation*

## Argument Against Proposition 8

**DON'T BE FOOLED!** Vote "NO" on this deceptive ballot measure. Proposition 8 appears reasonable on the surface, but contains pitfalls that could cost all Californians dearly in the years ahead.

### Proposition 8:

- Makes any further development of the state's remaining water supplies almost impossible. Nearly 40 percent of the state's available fresh water supply would be locked into the Constitution.
- Would ultimately result in higher food prices because more expensive water sources would be needed to replace the north coast rivers.
- Could hit the taxpayer's pocketbook; there is \$1.4 billion in outstanding general obligation bonds. The burden of repayment may fall on the taxpaying public if the state fails to meet its contractual obligations for delivery of water.

Further, Proposition 8 will actually prevent the most effective management of the state's water resources and the maintenance of delta water quality. Conditions constantly change. The state's water managers need the flexibility to respond to emergency situations to assure a dependable supply of water for our future generations. The devastating losses due to the drought we experienced in 1976 and 1977 could have been minimized with adequate water facilities.

This proposition is shortsighted. All of us are con-

cerned about protecting our environment. We must strike a proper balance between environmental enhancement and other equally important needs, such as creating jobs, stimulating our state's economy and providing food on our tables at reasonable prices.

The long-term interests of the public will not be served with this proposition. It is only a handful of environmental elitists who want to block all future water development. These are the same people who talk a lot about water conservation by others, but want to allow millions of gallons of fresh water from our major rivers to be wasted to satisfy their own selfish interests.

This proposition, which was opposed while in the Legislature by many organizations including the Association of California Water Agencies, California Farm Bureau Federation and the California Chamber of Commerce, is simply unnecessary.

**DON'T BE FOOLED!** We face a grim future where the general public could be held hostage by emotional demands from select, single-issue groups.

Taxpayers, consumers and future generations will be the real losers if Proposition 8 is approved.

**VOTE "NO" ON PROPOSITION 8.**

**JOHN E. THURMAN**  
*Member of the Assembly, 27th District*

**FREDERICK J. HERINGER**  
*President, California Farm Bureau Federation*

## Rebuttal to Argument Against Proposition 8

The opponents of this proposition are wrong. Your yes vote on Proposition 8 will expedite the delivery of additional water to:

- Southern California to replace Colorado River water which will be lost to Arizona and
- The San Joaquin Valley and thus assure a continued food supply.

At the same time this proposition provides constitutional protection for:

- The San Francisco Bay.
- The Sacramento-San Joaquin River Delta.
- The North Coast Wild and Scenic Rivers.

Opponents of this proposition want to drain and divert water from, and thereby destroy, California's wild and scenic rivers. Perhaps some day we will need water from our wild rivers, but that day is at least 30 to 50 years away, if ever. Proposition 8 guarantees that any future decision to dam the wild rivers will *only* be made

by a statewide vote of the people or a two-thirds vote of the Legislature. Proposition 8 is vitally important to all Californians. That is why it is supported by:

- Tom Bradley, Mayor, City of Los Angeles.
- Dianne Feinstein, Mayor, City and County of San Francisco.
- League of Women Voters of California.
- Orange County Water District.
- San Diego County Water Authority.
- Contra Costa County Water District.
- San Francisco Bay Conservation and Development Commission.

Vote "YES" on Proposition 8.

**LEO T. MCCARTHY**  
*Member of the Assembly, 18th District*  
*Speaker of the Assembly*

**LAWRENCE KAPILOFF**  
*Member of the Assembly, 78th District*

## Official Title and Summary Prepared by the Attorney General

**CALIFORNIA SAFE DRINKING WATER BOND LAW OF 1976. LEGISLATIVE STATUTORY AMENDMENT.** Amends California Safe Drinking Water Bond Law of 1976 by authorizing Legislature to increase from \$15,000,000 to \$30,000,000 the amount of previously authorized bond proceeds that may be used for grants to political subdivisions, owning or operating domestic water systems, upon determination that such subdivisions are otherwise unable to meet minimum safe drinking water standards. Provides that up to \$15,000,000 of the \$30,000,000 may be used for grants for construction, improvement, or rehabilitation of domestic water systems which have become contaminated by organic or inorganic compounds, or radiation. Fiscal impact on state or local governments: Revenue loss to State General Fund of \$36 million (in principal plus interest) over a 30-year period.

## FINAL VOTE CAST BY THE LEGISLATURE ON AB 2404 (PROPOSITION 9)

Assembly—Ayes, 70	Senate—Ayes, 28
Noes, 0	Noes, 3

## Analysis by the Legislative Analyst

**Background:**

For the last 20 years, the state has constructed or helped finance construction of local water supply systems and wastewater treatment facilities by selling general obligation bonds. In 1976 the state's involvement in financing local water systems was extended when the California Safe Drinking Water Bond Law authorized the state to make loans and grants to improve domestic water supplies. This law authorized the state to sell \$175 million in general obligation bonds to help finance the construction, improvement or rehabilitation of public or private water systems in order to provide clean water to meet health and cleanliness standards established by the State Department of Health. The safe drinking water program is administered by the Department of Water Resources in cooperation with the Department of Health.

At least \$160 million of the \$175 million in general obligation bonds authorized by the Safe Drinking Water Bond Law must be used for *loans* to water suppliers. Up to \$15 million may be used for *grants* to public water suppliers which lack resources to repay a loan. No supplier may receive a grant of more than \$400,000, and all grants must be approved by the Legislature. As of June 30, 1980, the Department of Water Resources had committed approximately \$46 million for loans and \$6 million for grants, leaving \$114 million from the 1976 law available for loans and up to \$9 million available for grants.

**Proposal:**

This proposal would increase the amount of proceeds from the sale of bonds under the Safe Drinking Water

Bond Law that could be used for grants to public water suppliers. The amount would be increased from \$15 million to \$30 million. The minimum amount authorized for loans would decrease from \$160 million to \$145 million.

The additional \$15 million available for grants would have to be allocated under the same rules and for the same purpose as funds under the existing program, except that the money could also be used for grants for projects to construct, improve or rehabilitate domestic water systems which have been contaminated by organic or inorganic compounds (such as nitrates, DBCP, TCE, and arsenic) or by radiation. Any portion of the \$30 million that would be authorized for grants if this measure is approved and which has not been encumbered by November 4, 1982, may thereafter be used only for loans.

**Fiscal Effect:**

Because the measure would allow an additional \$15 million in Safe Drinking Water Bond Law proceeds to be used for grants (which are not repayable) rather than loans, it would reduce revenues to the State General Fund by an amount equal to the principal and interest on \$15 million of bond proceeds.

Assuming that the bonds are sold at an average interest rate of 7 percent with the principal to be repaid over a 30-year period, the interest on \$15 million would be approximately \$21 million. The revenue loss to the General Fund resulting from this measure would therefore be \$36 million (\$15 million in principal plus \$21 million in interest).

## Text of Proposed Law

This law proposed by Assembly Bill 2404 (Statutes of 1980, Ch. 252) is submitted to the people in accordance with the provisions of Article XVI of the Constitution.

This proposed law amends a section of the Water 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 *italic type* to indicate that they are new.

### PROPOSED LAW

SECTION 1. Section 13861 of the Water Code is amended to read:

13861. (a) The moneys in the fund are hereby continuously appropriated and shall be used for the purposes set forth in this section.

(b) The department is authorized to enter into contracts with suppliers having authority to construct, operate, and maintain domestic water systems, for loans to such suppliers to aid in the construction of projects which will enable the supplier to meet, at a minimum, safe drinking water standards established pursuant to Chapter 7 (commencing with Section 4010) of Part 1 of Division 5 of the Health and Safety Code.

(c) Any contract pursuant to this section may include such provisions as may be agreed upon by the parties thereto, and any such contract shall include, in substance, the following provisions:

(1) An estimate of the reasonable cost of the project.

(2) An agreement by the department to loan to the supplier, during the progress of construction or following completion of construction as may be agreed upon by the parties, an amount which equals the portion of construction costs found by the department to be eligible for a state loan.

(3) An agreement by the supplier to repay the state, (i) over a period not to exceed 50 years, (ii) the amount of the loan, (iii) the administrative fee as described in Section 13862, and (iv) interest on the principal, which is the amount of the loan plus the administrative fee.

(4) An agreement by the supplier, (i) to proceed

expeditiously with, and complete, the project, (ii) to commence operation of the project upon completion thereof, and to properly operate and maintain the project in accordance with the applicable provisions of law, (iii) to apply for and make reasonable efforts to secure federal assistance for the project, (iv) to secure approval of the department and of the State Department of Health Services before applying for federal assistance in order to maximize and best utilize the amounts of such assistance available, and (v) to provide for payment of the supplier's share of the cost of the project, if any.

(d) By statute, the Legislature may authorize bond proceeds to be used for a grant program, with grants provided to suppliers that are political subdivisions of the state, if it is determined that such suppliers are otherwise unable to meet minimum safe drinking water standards established pursuant to Chapter 7 (commencing with Section 4010) of Part 1 of Division 5 of the Health and Safety Code. The total amount of grants shall not exceed ~~fifteen million dollars (\$15,000,000)~~ *thirty million dollars (\$30,000,000)*, of which up to ~~fifteen million dollars (\$15,000,000)~~ *fifteen million dollars (\$15,000,000)* may be used for grants for projects for the construction, improvement, or rehabilitation of domestic water systems which have become contaminated by organic or inorganic compounds (such as nitrates, DBCP (dibromochloropropane), TCE (trichloroethylene), and arsenic), or radiation, in such amounts as to render the water unfit or hazardous for human consumption, and no one supplier may receive more than four hundred thousand dollars (\$400,000) in total. *Any of the moneys made available pursuant to this subdivision, for grants for projects, which have not been encumbered within two years after the effective date of amendments to this subdivision made by Assembly Bill No. 2404 of the 1979-80 Regular Session shall be available only for loans pursuant to this section.*

*The Legislative Analyst shall review the grant programs and report to the Legislature not later than February 1, 1981.*

**You must reregister whenever you move**

### Argument in Favor of Proposition 9

Proposition 9 will reallocate funds that were approved by the voters in 1976 under the Safe Drinking Water Bond Law to provide additional grants to clean up drinking water polluted by groundwater contamination. The measure would transfer \$15,000,000 of the \$160,000,000 earmarked for loans into the grant program fund to be utilized specifically for abating the effects of ground water contaminated by DBCP, TCE, arsenic, nitrates, and other contaminants.

Proposition 9 is necessary in light of the recent discoveries of widespread contamination of DBCP in the San Joaquin Valley, TCE in major metropolitan areas, and localized pockets of various types of contamination throughout the state. Because the state's water policy declares that all of its citizens are to be provided clean safe drinking water, it is essential to reallocate these funds to ensure that policy is executed.

The 1976 Bond Law originally provided \$15,000,000 for grants to construct or rehabilitate domestic water systems. These funds will soon be exhausted. If this measure fails now, it will be two years before voters have another opportunity to amend the act. Without the increase in funds available through the grant program provided for by Proposition 9, it will be financially impossible for some municipal suppliers of water and school districts to adequately protect the public's health and safety.

The reallocation of funds proposed by Proposition 9 would not result in an unchecked bureaucratic expenditure of funds on spurious or ill-founded projects. Each individual grant must be processed according to very strict guidelines embodied in present law. The applicant must first apply for a loan and be turned down before a grant application is ever considered. Once a grant is recommended by the Department of Water Resources, the Legislature must then approve the grant, which cannot by law exceed \$400,000.

This ballot proposal is somewhat unique in that it contains a "sunset provision." This requires that any funds which are not approved for grants by the Legislature within the next two years shall revert to the loan program. This will ensure that the funds approved by the voters will be utilized in the most expeditious manner.

A yes vote on Proposition 9 is a vote which protects the general public's health and safety.

**RICHARD LEHMAN**

*Member of the Assembly, 31st District*

**ROSE ANN VUICH**

*State Senator, 15th District*

**RONALD B. ROBIE**

*Director, California Department of Water Resources*

### Rebuttal to Argument in Favor of Proposition 9

More clean drinking water is a desirable goal. We just do not believe that this ballot measure is the proper way to approach that goal.

Proposition 9 grants tax funds to water districts who failed to qualify for other means of financing. Under this proposition a governmental entity which is poorly managed or experiencing financial problems, and therefore not eligible for a loan, is given preferential treatment over districts who have their finances in proper order.

Proponents argue that "each individual grant must be processed according to very strict guidelines embodied in present law." The truth is the law which creates these guidelines, Assembly Bill 2047 (Tanner), does not establish standards until July 1981, a full eight months after the election. Voters cannot cast an intelligent choice until they know what the standards will be.

Proponents also argue that Proposition 9 is necessary

"in light of recent discoveries" of water pollution.

In reality, Proposition 9 is a monetary sledgehammer to kill the proverbial fly. If the taxpayer responds with more money each time the bureaucrats set new standards, there will be no end to the increased tightness of the standards which the bureaucrats draw. It is our belief that the standards will increase directly proportionate to the amount of money available.

Proponents also make mention of the "sunset provision" and they argue that "funds approved by the voters will be utilized in the most expeditious manner."

Voters will surely believe that the tax money will be spent *expeditiously*. But before you vote for Proposition 9 ask yourself if these funds will also be spent *wisely*.

We urge your NO vote.

**JOHN G. SCHMITZ**

*State Senator, 36th District*

## Argument Against Proposition 9

We question whether this measure would accomplish what the proponents claim, but rather feel that it would grant unaccountable money to certain individuals with no guarantee that these funds will be used for improving water quality.

Of the total \$175 million called for by this bond issue, \$30 million is allocated as a grant rather than as a loan. Under current law, agencies accepting loans are obligated to repay the full amount of the principal and interest costs. This means the state will lose the \$30 million and a compounded interest which could total as much as \$60 million or more.

Perhaps most significant is that this issue does not address the question as to what guidelines will be used to determine a polluted water supply. Every glass of water in the world could by some "scientific" standard be declared polluted.

A further question arises as to who would determine which water districts receive these free moneys and which ones do not. This measure would not insure that your city's water district would receive any of this money.

We also question what percentage of this money would be spent on administrative, bookkeeping, research, and planning which do nothing directly to improve water quality.

Isn't water a local property-related issue, and as such shouldn't it be handled at the local level? Would a state-wide law pertaining to these funds be an invitation to the federal government to regulate this project?

In summary, we oppose this measure because:

- (1) It should be handled at the local level.
- (2) We do not want or need any more controls that always accompany federal government "aid."
- (3) It provides no standard to determine pollution.
- (4) It does not outline which water districts will receive the money.
- (5) It does not guarantee that funds go directly to improving water quality.

We believe this measure is another tax-eating boondoggle and urge your "no" vote.

**JOHN G. SCHMITZ**  
*State Senator, 36th District*

## Rebuttal to Argument Against Proposition 9

The opponent of Proposition 9 clearly did not read the present law or the proposition. If he had, his ballot argument against the proposal would not be riddled with inaccuracies as it is now.

First, this is not a new bond issue. Rather, it is a reallocation of existing funds which were approved by the voters in 1976. The 1976 law set aside \$15,000,000 for grants and \$160,000,000 for loans. This proposition would merely shift \$15,000,000 from loans to grants.

Next, his comments regarding the determination of what constitutes a polluted supply of water are ludicrous. The State Department of Health has clearly set parameters by which to gauge pollution, and the Legislature has ultimate oversight over the grants and must approve each one before it is expended. This provides an adequate check on any bureaucratic errors.

This also ensures the Legislature will be able to equitably distribute grants to all agencies which have

ground water contamination problems.

By approving this measure, one is not approving funds for any other purpose than grants to improve water quality. The administrative costs are part of the total funds of the Safe Drinking Water Bond Law of 1976.

Finally, we would agree that issues should be handled at the local level, if possible. However, many local agencies are just not able to bear the brunt of an enormous financial burden alone. It is in these cases that the state must recognize clearly defined state policy and respond with a program as proposed by this proposition.

**RICHARD LEHMAN**  
*Member of the Assembly, 31st District*

**ROSE ANN VUICH**  
*State Senator, 15th District*

**RONALD B. ROBIE**  
*Director, California Department of Water Resources*

## Official Title and Summary Prepared by the Attorney General

**SMOKING AND NO-SMOKING SECTIONS. INITIATIVE STATUTE.** Provides for designation of smoking and no-smoking sections in every enclosed public place, enclosed place of employment, enclosed educational facility, enclosed health facility and enclosed clinic. Does not limit smoking in outdoor areas or private residences. Establishes criteria for defining smoking and no-smoking sections. Requires signs be posted designating no-smoking areas. Violation is infraction punishable by \$15 fine per violation. Provides no person may be taken into custody or subject to search for violation. Allows enactment of further legislation and regulations relating to smoking. Requires implementation standards be adopted by Department of Health Services. Fiscal impact on state and local governments: Issuance of regulations by state, posting of nonsmoking signs by state and local governments, and enforcement of measure by state and local governments would result in minor costs to state and local governments. Indeterminable reduction in state and local tax revenues could result from reduced cigarette consumption. Indeterminable savings could result from decline in smoking-related illness among employees and participants in state health-related programs and from decline in fire losses.

## Analysis by the Legislative Analyst

**Background:**

Existing state law restricts smoking of tobacco in *publicly* owned buildings and retail food stores. As a result:

1. Signs must be posted that smoking is prohibited within an area of a publicly owned building (other than in lobbies) when the area is used to exhibit motion pictures, present stage dramas, music recitals, and certain other types of performances.

2. When a public meeting is held in a government building, at least 50 percent of the meeting space must be designated and posted as a no-smoking area.

3. At least 20 percent of the dining area within publicly owned health facilities and clinics and within publicly owned buildings must be designated and posted as a no-smoking area.

4. Smoking is prohibited in retail food stores during business hours, except for areas set aside for smoking by employees only.

Under a state law which will take effect January 1, 1981, smoking will also be prohibited and signs required in certain areas of *privately* owned health facilities and clinics.

Some California cities and counties have local ordinances which prohibit smoking in other private buildings, such as retail stores, in portions of movie theaters, and in portions of restaurants.

**Proposal:**

This measure would extend the requirement for designation and posting of smoking and no-smoking sections or areas to additional enclosed buildings and facilities, both publicly and privately owned. The types of enclosed buildings and facilities affected by the measure include public places, such as restaurants and retail stores, places of employment, educational facilities, health facilities and clinics. The measure would not limit smoking in outdoor areas or in private residences.

The measure would require the State Department of Health Services to adopt, by February 2, 1981, specific regulations covering the designation of smoking and

no-smoking sections or areas. These regulations will become effective when the remainder of the measure becomes effective on March 4, 1981. The regulations would, among other things, specify the types of facilities and areas which *may* be designated in their entirety as smoking areas, or which *must* be designated in their entirety as no-smoking areas. These regulations would have to be consistent with the following general criteria:

1. Smoking and no-smoking sections need not be separated by walls or partitions.

2. Areas in which it would be inappropriate to limit smoking, such as motel rooms, or rooms normally occupied exclusively by persons who smoke, may be designated in their entirety as smoking areas.

3. Areas in which it would be impractical to designate smoking and no-smoking sections, such as public areas of retail stores, elevators, and buses, shall be designated in their entirety as no-smoking areas.

4. Employees in enclosed places who request work stations in no-smoking areas shall be accommodated.

This measure would not prevent the owner or manager of any facility or area to designate the facility or area in its entirety as a no-smoking area. This measure specifies that the State Department of Health Services shall use existing resources to fulfill its requirements under the measure, and shall not request or obtain additional funding for this purpose.

The measure would also require the owner or lessee of buildings or facilities to post conspicuous signs identifying smoking or no-smoking areas. At *private* facilities, *no-smoking* signs would be required in no-smoking areas. Smoking would be permitted in all other areas. At *government* facilities, *smoking-permitted* signs would be required in designated *smoking areas*; and additional signs, stating that smoking is prohibited except in designated smoking areas, would be required indoors at every facility entrance.

The measure limits state and local government expenditures for signs to 50 cents per sign (plus a reason-



able cost adjustment for inflation since November 15, 1979) and requires governmental entities to install signs using existing funds.

A fine of \$15 would be imposed upon anyone violating the provisions of this measure. The measure provides that no person may be taken into custody or be subject to search for violating its provisions. Each day in which the sign-posting requirements are violated would be considered a separate and distinct offense. The measure also prohibits discrimination in employment against a person who exercises the rights afforded by the measure.

Local governing bodies would be permitted to make smoking unlawful in areas not regulated by this measure in any manner that is not inconsistent with the provisions of state law. In addition, the Legislature would be authorized, with certain exceptions, to amend the measure as long as the amendment is consistent with the intent declared in the measure.

#### Fiscal Effect:

**Direct Fiscal Effect.** The Department of Health Services would incur minor increased costs in issuing regulations implementing the measure. The department's workload would also be increased because of its responsibility to enforce sign-posting requirements. However, because the measure specifies that the department perform all responsibilities with existing funds, the department would have to divert funds from

other programs to cover the costs of issuing regulations and enforcing the sign-posting requirement.

All state and local agencies would incur minor costs in purchasing the required signs. The agencies would use existing staff to install the signs.

Local governments would also experience minor costs in enforcing the measure. These costs could be absorbed within ongoing enforcement activities and would not have a significant effect on existing law enforcement and judicial budgets. Local governments would also receive increased revenue collected through fines, but the amount would be minor.

**Indirect Fiscal Effect.** The measure could have significant indirect effects on state and local expenditures and revenues. For example:

1. If the measure leads to a significant reduction in smoking, there could be a substantial reduction in government health-related costs *over an extended period of time*. There also could be reductions in other smoking-related costs, such as for property loss caused by fires.

2. If the measure results in a significant reduction in smoking, there would be a substantial reduction in state and local revenue from lower sales and cigarette tax collections.

There is no adequate basis on which to predict the magnitude of these indirect effects, and therefore we are unable to estimate the net ongoing fiscal impact of this measure.

### Text of Proposed Law

This initiative measure proposes to add sections to the Health and Safety Code; therefore, new provisions to be added are printed in *italic type* to indicate that they are new.

#### PROPOSED LAW

SECTION 1: Chapter 10.7 is added to the Health and Safety Code to read: "Chapter 10.7 Smoking and No Smoking Sections

##### § 25930 Name

*This Chapter shall be known and may be cited as the "Smoking and No Smoking Sections Act of 1980."*

##### § 25931 Findings

*The People of the State of California find that:*

(a) *Breathing second-hand smoke for extended periods may cause disease in healthy nonsmokers;*

(b) *Breathing second-hand smoke can aggravate the condition of more than 2½ million Californians with heart or lung disease;*

(c) *Second-hand smoke, like all tobacco smoke, contains more than 4,600 chemicals, many of which are dangerous to human health;*

(d) *Air pollution above Federal standards can occur in enclosed places because of second-hand smoke, even with normal ventilation;*

(e) *Second-hand smoke can cause burning of the eyes and nasal passages, headaches, nausea and discomfort in nonsmokers, and can aggravate the condition of persons with allergies to other substances.*

**COMMENT:** *The findings stated in Section 25931 are identical to conclusions reached in a November 1979 compilation of the world scientific research entitled*

*"Tobacco Smoke and the Nonsmoker" by Luther Terry MD (US Surgeon General 1961-65); Jesse Steinfeld MD (US Surgeon General 1969-73); Raymond Weisberg MD (President, American Cancer Society, Calif. Div.); Peter Pool MD (President-Elect, American Heart Assn., Calif. Affiliate); Robert Fallat MD and Charles Mittman MD (Board Members, American Lung Assn. of Calif.); and Stanton Glantz PhD (Asst. Professor of Medicine, UCSF).*

##### § 25932 Purpose and Intent

(a) *The purpose of this Chapter is to protect the health, comfort and environment of nonsmokers in certain enclosed places.*

(b) *The intent of this Chapter is to strike a reasonable balance between the needs of persons who smoke and the need of nonsmokers to breathe smoke-free air, and to recognize that, where these needs conflict, the need to breathe smoke-free air should have priority.*

##### § 25933 Smoking and No Smoking Sections

(a) *Subject to the criteria set forth in Section 25934, smoking and no smoking sections or areas shall be established and designated in every enclosed public place, enclosed place of employment, enclosed educational facility, enclosed health facility and enclosed clinic. No person shall smoke in a no smoking section or area.*

(b) *This Chapter shall not limit smoking in outdoor areas, in private residences, or in any place not established pursuant to this Chapter as a no smoking section or area, nor prohibit the sale of tobacco products.*

##### § 25934 Criteria

*Smoking and no smoking sections and areas established and*

*Continued on page 54*

## Argument in Favor of Proposition 10

The medical evidence is in!  
The health of nonsmokers is harmed by other people smoking in their presence.

## WHAT CAN YOU DO ABOUT IT?

Your "yes" votes on Proposition 10 will make sure that smokers have areas in buildings where smoking is allowed where they can smoke without interfering with the health or comfort of nonsmokers.

## WHO WILL BENEFIT FROM PROPOSITION 10?

Nonsmokers will benefit. They will not have to involuntarily breathe smoke from other people's tobacco.

People who are trying to quit smoking will benefit. They will be able to separate themselves from the temptations of smokers and smoke in the air.

Young children will benefit by not being exposed to the social lure of smoking as often and by not having to breathe other people's smoke.

Smokers will benefit by being able to enjoy their habit without enduring the scowls of nonsmokers.

## HOW MUCH WILL ALL THIS COST?

According to independent studies by University of California professors, government would save \$49 million a year and private businesses would save \$129 million a year in medical costs of smoking-induced illness to employees, property loss from smoking-caused fires, and extra sick leave used by smoking employees.

## HOW WILL PROPOSITION 10 WORK?

In public places smoking would be permitted in designated areas, and nonsmokers could simply stay away from those areas.

In offices and on the job, employees could simply request that there be a reasonable distance between themselves and other employees who smoke.

Nonsmoking workers who don't care either way could be located between the two groups as a buffer zone.

Restaurants and other similar places would have to provide nonsmoking areas for those who want them.

## WILL THIS MEAN COSTLY DIVIDERS AND SIGNS?

Not at all. Proposition 10 does not require any walls or room dividers—just a reasonable distance between smokers and nonsmokers.

Proposition 10 also says government agencies need post signs only at building entrances, can spend no more than 50 cents per sign, and must pay for signs out of current revenues with no new taxes.

## WHY IS PROPOSITION 10 NEEDED?

Many nonsmokers are annoyed by other people's smoke. Some nonsmokers with heart or lung ailments have their conditions worsened by other people's smoke. Healthy nonsmokers can develop lung ailments from breathing other people's smoke.

The decision to smoke is a smoker's own business and a matter of personal choice. But smokers don't want to harm or annoy others. Proposition 10 will provide areas where smokers can exercise their right to smoke, while allowing nonsmokers the right to remain separated from those smoking areas.

## WHO SPONSORS PROPOSITION 10?

The Cancer Society, the Lung Association, the Heart Association, the California Medical Association, and many other individuals and organizations have reviewed the health hazards to nonsmokers from breathing other people's smoke and have endorsed a "yes" vote on Proposition 10.

**RAYMOND L. WEISBERG, M.D.**

*President, American Cancer Society, California Division*

**DIANE E. WATSON**

*State Senator, 30th District*

*Vice Chair, Senate Health Committee*

**PETER E. POOL, M.D.**

*President, American Heart Association of California*

## Rebuttal to Argument in Favor of Proposition 10

*Read the fine print, then vote "No" on Proposition 10.*

*This proposal is loaded with hidden taxpayer costs and unfair and misleading requirements.*

The State Legislative Analyst estimates beginning taxpayer costs for printing signs and issuing regulations will be \$180,000.

It is difficult to estimate the actual costs to install signs or to enforce Proposition 10. Using an estimate of 260,000 signs, if we assume an installation cost of from \$3 to \$10 each, \$750,000 to \$2.5 million could be diverted from other governmental programs. And, to the extent that the cost of issuing and processing citations exceeds the \$15 fine, the taxpayers must carry the burden.

Our police and courts should use our tax money to catch and prosecute real criminals, instead.

Proposition 10 is a vague law which allows political appointees and State Health Department bureaucrats to "fill in" specific regulations later . . . with no reviews by the voters.

Proposition 10 is a misleading and costly overkill approach to a minor social annoyance.

*Please vote "No" on Proposition 10.*

**HOUSTON I. FLOURNOY**

*Former State Controller*

**PETER J. PITCHESS**

*Sheriff, County of Los Angeles*

**DAVID BERGLAND**

*President, Californians Against Regulatory Excess*

## Argument Against Proposition 10

Your "No" vote on Proposition 10 can stop this costly and misleading proposal from becoming law.

Proposition 10 is a cleverly reworded version of the proposal Californians rejected in 1978.

There are several major problems with Proposition 10:

- *True and complete taxpayer costs are hidden from the public.*
- *Police and court personnel are required to enforce the plan.*
- *Political appointees and bureaucrats in the Department of Health will have the authority to create the regulations, with no review by voters.*
- *Important health services may have to be reduced to provide enforcement of this complex, statewide law.*

### THE FULL COSTS ARE HIDDEN

The full costs of Proposition 10 will be hidden in the Health Department budget and local police and court budgets because Proposition 10 provides no new funds for implementation.

The Legislative Analyst found that if Health Department enforcement requires funding from existing programs "the department would have to divert funds from other programs . . ."

Many small businesses may be hurt the most, being forced to pay for expensive reorganization that many cannot afford in our troubled economy.

Businesses large or small pass the costs of regulations on to the consumer by raising prices. *Consumers will be forced to pay the costs of reorganizing every enclosed public place in California!*

### POLICE AND COURTS WILL SUFFER

Police officers will be required to issue tickets for illegal smoking.

*Police should spend their time patrolling our streets for burglars . . . not prowling office buildings searching for illegal smokers.*

### WASTE OF TAXPAYER DOLLARS

*Proposition 10 is a blank check for bad government. Political appointees will have authority to draft the standards and regulations after Proposition 10 is approved.*

This proposition takes away our right to control the costs and amount of government regulation we will tolerate. You will not have a chance to overrule these appointed regulators.

*Proposition 10 invites unfair discrimination against poor people and small businesses. Inspectors and police officers are not likely to intrude into wealthy private clubs or corporate boardrooms.*

### IT'S UP TO YOU

Before you vote, ask these questions:

- *"Do I want police and judges spending time and my tax dollars enforcing no-smoking laws?"*
- *"Do I want political appointees and bureaucrats to have the authority to make regulations, with no review by the taxpayers?"*
- *"Should enforcement of a no-smoking law have equal priority with vital health services, like control of hazardous chemical waste, inspections of convalescent hospitals or providing services for crippled children?"*

Our society is already too complex, expensive and difficult. We should not make matters worse by creating more ways to divide us.

*Proposition 10 is an expensive, misleading and unfair law. We urge you to vote "No" on Proposition 10.*

**HOUSTON I. FLOURNOY**  
*Former State Controller*

**PETER J. PITCHESS**  
*Sheriff, County of Los Angeles*

**DAVID BERGLAND**  
*President, Californians Against Regulatory Excess*

## Rebuttal to Argument Against Proposition 10

*"You have engaged in a reprehensible form of dishonesty and have thereby perpetrated a fraud upon the voters of California. You have also misused my name in what I consider to be a most unfair manner."*

That's what Dr. Jonathan E. Rhoads, past President of the American Cancer Society, wrote two years ago to protest the way the tobacco industry misquoted him in their ballot argument against a similar California proposition.

TWO OF THE SIGNERS OF THAT DISCREDITED BALLOT STATEMENT WERE MR. FLOURNOY AND MR. PITCHESS, WHO NOW HAVE SIGNED THEIR NAMES TO THE ARGUMENT AGAINST PROPOSITION 10.

"You quote my words out of context to make it appear that I believe secondhand smoke is harmless to nonsmokers," Dr. Rhoads said of Mr. Pitchess' and Mr. Flournoy's statements in 1978. Dr. Rhoads went on to point to medical evidence that secondhand smoke can cause respiratory disease and worsen heart and lung disorders in nonsmokers.

*You should consider Mr. Pitchess' and Mr. Flournoy's cur-*

*rent statements with a full knowledge of the proven distortions and deceptions they participated in before.*

The medical evidence of how nonsmokers are harmed by other people's smoke is conclusive.

No amount of tobacco industry spending and deception can change the facts.

Proposition 10 is a reasonable measure that protects the rights and comfort of smokers as well as nonsmokers.

Vote "YES" on PROPOSITION 10 for a free choice for everyone.

Thank you.

**RAYMOND L. WEISBERG, M.D.**  
*President, American Cancer Society, California Division*

**DIANE E. WATSON**  
*State Senator, 30th District*  
*Vice Chair, Senate Health Committee*

**PETER E. POOL, M.D.**  
*President, American Heart Association of California*

## Official Title and Summary Prepared by the Attorney General

**JUDGES' SALARIES. LEGISLATIVE CONSTITUTIONAL AMENDMENT.** Establishes base salary of a judge of a court of record, beginning on January 1, 1981, as equal the annual salary payable as of July 1, 1980, for that office had the judge been elected in 1978. Provides Legislature may prescribe salary increases during a term of office, may terminate prospective increases at any time during a term of office, but shall not reduce a salary during a term of office below the highest level paid during that term. Provides that laws setting the salaries of judges shall not constitute an obligation of contract. Fiscal impact on state and local governments: State salary and pension reductions of approximately \$2.7 million from 1981 through 1986.

## FINAL VOTE CAST BY THE LEGISLATURE ON SCA 37 (PROPOSITION 11)

Assembly—Ayes, 72  
Noes, 0

Senate—Ayes, 30  
Noes, 3

## Analysis by the Legislative Analyst

**Background:**

The Constitution requires the Legislature to set salaries and provide retirement benefits for judges serving on the Supreme Court of California, the courts of appeal, the superior courts, and the municipal courts. The Constitution prohibits the Legislature from reducing the salaries of elected state officers (including judges) during their term of office. The Constitution also prohibits the Legislature from passing any law that impairs the obligation of a contract.

In 1969, legislation was enacted under which judges received an automatic annual salary increase based on the annual percentage increase in the California Consumer Price Index. This automatic increase applied to judges' pensions as well, because pension benefits are tied to the salaries of active judges.

In 1976, the Legislature passed a law that (1) froze judges' salaries on January 1, 1977, for 18 months and (2) limited subsequent annual salary increases for judges to a maximum of 5 percent.

The Supreme Court of California has ruled that the 1976 law was partly inconsistent with the Constitution because it, among other things, impaired the employment contracts between certain judges and the state. Specifically, the court ruled that in the case of judges who were in office *before* January 1, 1977 (when the 1976 law became effective), neither the salary freeze nor the 5-percent limit on subsequent salary increases could be applied until those judges began *new* terms of office.

Because of the court's ruling, there is now a two-tier salary structure for judges, one based on the 1976 law and a higher one based on the 1969 law. Thus, as of January 1981:

- Four associate judges of the Supreme Court will be paid \$88,685 annually, while the other two associate judges will be paid \$72,855.
- Twenty-three judges of the courts of appeal will be paid \$83,143, while the other 36 judges of these courts will be paid \$68,303.

As their terms expire, the base salaries of the judges receiving these higher amounts will be reduced to the same levels as those paid to the other judges whose salary increases are limited to 5 percent annually.

Pensions of certain retired judges and their survivors also increased as a result of the Supreme Court's ruling, because pension benefits are tied to active judges' salaries. Generally, a retired judge receives an allowance equal to either 65 percent or 75 percent of the current salary paid to the judge holding the office to which the retired judge was last elected.

**Proposal:**

This measure would amend the State Constitution to produce the following effects:

- It would eliminate, effective January 1, 1981, the additional pay being received by each judge whose base salary was increased as a result of the Supreme Court's ruling.
- It would eliminate, effective January 1, 1981, the additional pension benefits being received by each retired judge (or survivor) as a result of the court's ruling.
- It would authorize the Legislature to terminate expected *increases* in judges' salaries *during* their term of office, provided that such action does not cause a reduction in the actual salaries paid to judges during their term.
- It would specifically provide that salaries of judges are not considered an obligation of contract.

**Fiscal Effect:**

This measure would have the following impact on state costs:

1. *Based on the present two-tier salary structure, it would reduce state costs for judges' salaries and pensions by approximately \$2.7 million from 1981 through 1986.* The 27 judges who would otherwise continue to receive higher salaries than other judges as a result of the Supreme Court's ruling would have

their base salary reduced effective January 1, 1981, rather than on the dates their present terms expire. Of these judges, 14 have terms that expire in January 1983, and 13 have terms that expire in January 1987.

In addition, there would be a reduction in the cost of pensions paid to those retired judges (or survivors) who are receiving benefits tied to the active judges' salaries which would be reduced.

2. *State costs for judges' salaries and pensions would be further reduced by an unknown amount to*

*the extent that future annual increases in the California Consumer Price Index exceed 5 percent.* This is because, under the measure, future salary increases for these 27 judges would no longer be tied to the California Consumer Price Index, but would instead be limited under current law to a maximum of 5 percent annually.

Additional cost savings could result if, in the future, the Legislature eliminates expected increases in judges' salaries during a term of office.

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### Text of Proposed Law

This amendment proposed by Senate Constitutional Amendment 37 (Statutes of 1980, Resolution Chapter 77) expressly amends the Constitution by amending a section thereof; therefore, existing provisions proposed to be deleted are printed in ~~strikeout type~~ and new provisions proposed to be inserted or added are printed in *italic type* to indicate that they are new.

#### PROPOSED AMENDMENT TO ARTICLE III

SEC. 4. (a) *Except as provided in subdivision (b),* ~~Salaries~~ *salaries* of elected state officers may not be reduced during their term of office. Laws that set these salaries are appropriations.

(b) *Beginning on January 1, 1981, the base salary of a judge of a court of record shall equal the annual salary payable as of July 1, 1980, for that office had the judge been elected in 1978. The Legislature may prescribe increases in those salaries during a term of office, and it may terminate prospective increases in those salaries at any time during a term of office, but it shall not reduce the salary of a judge during a term of office below the highest level paid during that term of office. Laws setting the salaries of judges shall not constitute an obligation of contract pursuant to Section 9 of Article I or any other provision of law.*

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**Moving? Call the County Clerk or  
Registrar of Voters of your new  
county to reregister**

### Argument in Favor of Proposition 11

Passage of this proposition will save California taxpayers several million dollars by reasserting control over judicial salaries to prevent a substantial windfall by 27 State Supreme Court and court of appeal justices.

Prior to 1976, the salaries of California judges rose each year along with the consumer price index. In 1976, to prevent excessive raises in a period of high inflation, the California Legislature placed a 5-percent limit on the amount by which judicial salaries could increase each year. Some of the judges brought a lawsuit to do away with the 5-percent-per-year limit and return to the previous formula that tied judicial salaries to the consumer price index with no limitation on the annual increase. In the case of *Olson v. Cory*, 27 Cal.3d 203 (1980), the California Supreme Court found the 1976 legislative 5-percent limit on pay raises to be unconstitutional when applied to judges who were serving terms of office that began before the limit was imposed.

As a result of the decision, many California judges received salary increases and sizable back pay awards. Because superior and municipal court judges serve only six-year terms, by January of 1981 all of them, the substantial majority of the state's judges, will have reverted to the lower salary calculated by applying the 5-percent legislative limit to their annual raises. However, because Supreme Court and court of appeal justices serve 12-year terms, unless this proposition is adopted, 2 Supreme Court and 12 court of appeal justices will earn inflated salaries through 1983, and 2 other Supreme

Court and 11 other court of appeal justices will earn inflated salaries through 1987.

For example, assuming a 10-percent inflation rate over the next six years, in 1986, two Justices of the Supreme Court would be earning \$157,111 per year doing the same work as their five colleagues on the same court earning \$97,633. Unless this proposition is passed, over the next six years those two Supreme Court Justices would earn a total of \$203,255 more than their fellow justices.

This proposition will equalize the salaries of all judges of the same rank at the level established in accordance with the 5-percent-per-year formula adopted by the California Legislature in 1976, and will permit the Legislature in the future to control salaries as circumstances warrant. This bill passed the Assembly by a vote of 72 to 0 and the Senate 30 to 3, with almost unanimous support from both Democrats and Republicans.

This proposition simply reasserts legislative control over future salary increases of judges. The Controller has estimated that it will save the taxpayers in excess of \$3,000,000. We urge you to vote Yes on Proposition 11.

**JOHN GARAMENDI**  
*State Senator, 13th District*

**CHARLES R. IMBRECHT**  
*Member of the Assembly, 36th District*

**KENNETH HAHN**  
*Los Angeles County Supervisor, 2nd District*

### Rebuttal to Argument in Favor of Proposition 11

Judges need cost-of-living raises that keep up with inflation just as much as everyone else. Proposition 11 would perpetuate the injustice of limiting salary increases to 5 percent in these days of double-digit inflation. The logical solution to the inequities involved is to return to the former system of adjusting judges' salaries in accordance with the consumer price index.

Proposition 11 does far more than correct the inequities stated. It also adds a provision to the State Constitu-

tion that judges' salaries shall not constitute an obligation of contract and gives the Legislature the power to terminate prospective increases in salary. The State Constitution should not be amended in such a way as to give the Legislature more power over the judiciary. Vote No!

**TIMOTHY D. WEINLAND**  
*Attorney at Law*

**Study each issue carefully**

### Argument Against Proposition 11

Proposition 11 would increase the Legislature's power to limit cost-of-living pay adjustments for justices serving on the state's Supreme Court and courts of appeal. It would give the Legislature the power to at any time terminate prospective increases that have been promised and would declare that the salaries of judges shall not constitute an obligation of contract.

Increasing the Legislature's power over the judiciary would set a dangerous precedent. An independent judiciary is absolutely vital to the State of California. The Legislature should not have the power to terminate cost-of-living increases any time that a court renders an

unpopular decision.

The problems that Proposition 11 attempts to address could better be solved through an independent, non-partisan commission empowered to set the justices' salaries. Such a commission could be limited to economic considerations.

Don't give the Legislature more power over the judiciary! Don't deny justices cost-of-living increases that everyone needs in these days of runaway inflation! Vote No!

**TIMOTHY D. WEINLAND**  
*Attorney at Law*

### Rebuttal to Argument Against Proposition 11

The only arguments against Proposition 11 have been raised by a single attorney claiming it will:

- Give new power to the Legislature.
- Threaten the independence of the judiciary.
- Deny judges' salary increases.

The opposition is wrong on every point.

*Proposition 11 does not give the Legislature new power over judicial salaries.* Prior to the Olson decision, there was no question that the Legislature had the ability to control judges' pay in the same manner it sets salaries for all other state officers. Proposition 11 returns control over judges' pay to the Legislature.

*Proposition 11 does not threaten the independence of the judiciary.* Read the actual text of subdivision (a) yourself. Judges' salaries cannot be *reduced* during their term for any reason. This measure merely insures that the Legislature, not the courts, shall determine the amount of future salary *increases*.

*Proposition 11 does not deny judges cost-of-living increases.* By statute judges currently receive annual

raises equal to 5 percent of their salary, or the raise given other state employees, whichever is less. However, the *Olson* decision gave 27 Supreme and appellate court justices additional unlimited increases tied to the consumer price index. Unless Proposition 11 passes, these 27 judges will receive many thousands of dollars more each year than their colleagues doing the same work on the same court.

California judges are already among the highest paid in the world. It would be absurd to prohibit legislators elected by the people from controlling the amount of future increases.

Vote "YES" on Proposition 11.

**JOHN GARAMENDI**  
*State Senator, 13th District*  
**CHARLES IMBRECHT**  
*Member of the Assembly, 36th District*  
**KENNETH HAHN**  
*Los Angeles County Supervisor, 2nd District*

**Polls are open from 7 a.m. to 8 p.m.**

not limited to, areas of historical significance and areas of open space that complement park, beach, or recreational areas, or which are suitable for the preservation of coastal resource values.

(b) "District" means any district authorized to provide park, recreation, or open space services, or a combination of such services, except a school district.

(c) "Fund" means the Parklands Fund of 1980.

(d) "Historical resource" includes, but is not limited to, any building, structure, site, area, or place which is historically or archaeologically significant, or is significant in the architectural, engineering, scientific, economic, agricultural, educational, social, political, military, or cultural annals of California.

(e) "Historical resources preservation project" is a project designed to preserve an historical resource which is either listed in the National Register of Historic Places or is registered as either a state historical landmark or point of historical interest pursuant to Section 5021.

(f) "Program" means the Parklands Acquisition and Development Program established by this chapter.

#### Article 2. Parklands Acquisition and Development Program

5096.151. All money deposited in the Parklands Fund of 1980 shall be available for appropriation in the manner set forth in Section 5096.206 for the purposes set forth below in amounts not to exceed the following:

- (a) For grants to counties, cities, and districts for the acquisition, development, rehabilitation, or restoration of real property for park, beach, recreational, and historical resources preservation purposes, including state administrative costs ..... \$35,000,000
- (b) For acquisition, development, rehabilitation, or restoration of real property for the state park system in accordance with the following schedule ..... \$70,000,000

##### Schedule:

- (1) Sixty million dollars (\$60,000,000) for acquisition, development, and rehabilitation and for cost of planning and interpretation, of which not less than thirty million dollars (\$30,000,000) shall be for development and rehabilitation of structures and facilities in existing units of the state park system.
- (2) Ten million dollars (\$10,000,000) for acquisition, development, and restoration of historical resources and for historical resources preservation projects and costs of planning and interpretation.
- (c) For expenditure for coastal resources in accordance with the following schedule ..... \$90,000,000

##### Schedule:

- (1) Sixty million dollars (\$60,000,000) for acquisition or development of real property for the state park system and costs of planning.
- (2) Thirty million dollars (\$30,000,000) for grants to counties, cities, and districts for the acquisition, development, rehabilitation, or restoration of real property, or the acquisition of any interest in real property, necessary for the implementation of local coastal programs; for the implementation of projects in San Francisco Bay, as defined

in subdivisions (a) and (b) of Section 31006, and in the Santa Monica Mountains Zone, as described in Section 33105; and for state administrative costs in connection therewith.

- (d) For expenditure by the State Coastal Conservancy for purposes set forth in Division 21 (commencing with Section 31000), and for state administrative and planning costs in connection therewith..... \$10,000,000
- (e) For expenditure by the Department of Parks and Recreation for the purposes of the Roberti-Z'berg Urban Open-Space and Recreation Program Act (commencing with Section 5620 of the Public Resources Code)..... \$30,000,000

provided, however, that notwithstanding the provisions of Section 5627, funds made available pursuant to this category may be expended only for capital outlay purposes.

#### Article 3. Local Assistance Grants

5096.155. (a) Funds available for appropriation for local assistance grants pursuant to subdivision (a) of Section 5096.151 may be expended for the acquisition of parks, beaches, open-space lands, recreational trails, recreation facilities and areas, and historical resources, and for development rights and scenic easements in connection with such lands and resources.

(b) Funds granted pursuant to subdivision (a) of Section 5096.151 may be expended for development, rehabilitation, or restoration only on lands owned by, or subject to a lease or other interest held by, the applicant city, county, or district. If such lands are not owned by the applicant, the applicant shall first demonstrate to the satisfaction of the Director of Parks and Recreation that the development, rehabilitation, or restoration will provide benefits commensurate with the type and duration of interest in land held by the applicant.

5096.156. (a) All of the funds authorized in subdivision (a) of Section 5096.151 for local assistance grants shall be allocated among the counties on the basis of their populations as most recently projected by the Department of Finance for 1980.

(b) Each total county allocation of such funds shall be in the same ratio as the county's population is to the state's total population; provided, however, that each county shall be entitled to a minimum allocation of one hundred thousand dollars (\$100,000).

(c) Each county shall consult with all cities and districts within the county and shall develop and submit a priority plan for expenditure of the total county allocation to the state for approval. The priority plan shall consist of an apportionment of the total county allocation to the county, cities, and districts. The priority plan may include the names of individual projects under each jurisdiction and shall reflect consideration of deficiencies within the county in the preservation of historical resources and natural landscapes as well as in the provision of recreational areas and facilities. The priority plan shall be approved by at least 50 percent of the cities and districts representing 50 percent of the population of the cities and districts within the county, and by the county board of supervisors. Recognizing the fact that the boundaries of some cities and districts overlap, only the jurisdictions that will actually provide the facilities contemplated in the priority plan may participate in the approval process. In any county in which a regional park or open-space district is wholly or partially located, the priority plan shall reflect regional park or open-space needs as well as community and neighborhood park and recreation needs.



(d) The priority plan shall be submitted prior to January 1, 1982, to the Director of Parks and Recreation for approval. Failure to submit a priority plan by January 1, 1982, shall result in a 10 percent annual reduction of the total county allocation until the priority plan is submitted. By January 1, 1984, if the priority plan has not been submitted to the Director of Parks and Recreation, the county board of supervisors shall petition the Director of Parks and Recreation to distribute to high-priority projects the remaining 80 percent of the total county allocation. Any funds not allocated to a county shall remain in the fund and shall be expended in the manner provided in Section 5096.211. In addition, with the consent of all the cities and districts in the county, the county board of supervisors may reject all or part of the state grant moneys allocated to it pursuant to this section, and such moneys shall be expended in the manner provided in Section 5096.211.

(e) Local assistance grants made pursuant to this article for the acquisition of real property shall be on the basis of 75 percent state grants moneys and 25 percent local matching money for the project. Grants shall be matched only by money or property donated to be part of the acquisition project. The grant recipient shall certify to the Department of Parks and Recreation that there is available, or will become available prior to the commencement of any work on the project for which application for a grant has been made, matching money from a nonstate source. The certification of the source and amount of the funds shall be set forth in the application for a grant submitted to the department. Local matching money shall not be required with respect to a grant recipient that has urgent unmet needs for recreational lands and lacks the financial resources to acquire recreational lands, as determined pursuant to a formula set forth in regulations adopted by the Director of Parks and Recreation after a public hearing.

(f) Applications for individual projects may be submitted directly to the Director of Parks and Recreation by individual jurisdictions.

5096.157. (a) An application for a local assistance grant pursuant to this article shall be submitted to the Director of Parks and Recreation for review. The application shall be accompanied by certification from the planning agency of the applicant that the project is consistent with the park and recreation plan for the applicant's jurisdiction and would satisfy a demonstrated need.

(b) The minimum amount that may be applied for any individual project is twenty thousand dollars (\$20,000).

(c) Every application for a grant shall comply with the provisions of the California Environmental Quality Act (Division 13 (commencing with Section 21000)).

(d) Upon completion of the review of applications submitted pursuant to subdivision (a), approved projects shall be forwarded to the Director of Finance for inclusion in the Budget Bill.

5096.158. (a) No state grant funds may be disbursed until the applicant agrees that any property acquired or developed with such funds shall be used by the applicant only for the purpose for which the funds were requested and that no other use of the property shall be permitted except by specific act of the Legislature.

(b) No state grant funds may be disbursed unless the applicant agrees to maintain and operate the property acquired or developed pursuant to this article for a period commensurate with the type of project and the proportion of state grant funds and local funds allocated to the capital costs of the project.

#### Article 4. State Park System

5096.161. The Legislature recognizes that public financial

resources are inadequate to meet all capital outlay needs of the state park system and that the development of recently acquired units of the state park system has proceeded at a rate that has prevented their full potential for public use from being realized. Accordingly, it is declared to be the policy of the state that funds allocated pursuant to subdivision (b) of Section 5096.151 shall be appropriated primarily for projects that accomplish the following:

(a) Serve metropolitan population centers and accommodate day-use and weekend-overnight visits.

(b) Provide for the development of existing units with the minimum facilities necessary for accessibility, use, and interpretation.

(c) Rehabilitate facilities at existing units that will provide for more efficient management and reduced operational costs.

(d) Minimize dependence on motor vehicles and reduce other forms of energy and water consumption through appropriately designed facilities.

(e) Preserve examples of historical resources and natural landscapes that are underrepresented in the state park system.

5096.152. (a) Any Member of the Legislature, the State Park and Recreation Commission, the California Coastal Commission, or the Secretary of the Resources Agency may nominate any project to be funded under this article for study by the Department of Parks and Recreation. Any of the commissions shall make nominations by vote of its membership.

(b) The Department of Parks and Recreation shall study any project so nominated. In addition to the procedures required by Section 5006, the Department of Parks and Recreation shall submit to the Legislature annually a report consisting of a prioritized listing and comparative evaluation of all projects nominated for study, in accordance with the following schedule:

(1) March 1, 1981, for projects nominated prior to January 15, 1981.

(2) November 1, 1981, for projects nominated prior to June 30, 1981, and after January 15, 1981.

(3) November 1, 1982, and each November 1 thereafter for projects nominated during the 12 months ending June 30, 1982, and each June 30 thereafter.

(c) Projects proposed for appropriation for the state park system pursuant to subdivision (b) of Section 5096.151 shall be subject to the favorable recommendation of the State Park and Recreation Commission. Projects recommended by the commission shall be forwarded to the Director of Finance for inclusion in the Budget Bill.

5096.163. Acquisition for the state park system by purchase or by eminent domain shall be under the Property Acquisition Law (commencing with Section 15850 of the Government Code).

#### Article 5. Coastal Resources

5096.171. Funds available pursuant to subdivision (c) of Section 5096.151 shall be expended pursuant to this article.

5096.172. (a) Any Member of the Legislature, the California Coastal Commission, the State Coastal Conservancy, the San Francisco Bay Conservation and Development Commission, the State Park and Recreation Commission, or the Secretary of the Resources Agency may nominate, for study by the Department of Parks and Recreation, any project within the coastal zone for acquisition with funds made available for the state park system pursuant to category (1) of subdivision (c) of Section 5096.151. Any of the commissions, and the conservancy, shall make nominations by vote of its membership.

(b) The Department of Parks and Recreation shall study any project so nominated. In addition to the procedures re-

quired by Section 5006, the Department of Parks and Recreation shall submit to the Legislature annually a report consisting of a prioritized listing and comparative evaluation of all projects nominated for study, in accordance with the following schedule:

(1) March 1, 1981, for projects nominated prior to January 15, 1981.

(2) November 1, 1981, for projects nominated prior to June 30, 1981, and after January 15, 1981.

(3) November 1, 1982, and each November 1 thereafter for projects nominated during the 12 months ending June 30, 1982, and each June 30 thereafter.

(c) In making the prioritized listing and comparative evaluation of potential acquisition sites, the department shall adhere to the following criteria and priorities:

(1) The first priority for the acquisition of coastal resources is as follows:

(A) Land and water areas best suited to serve the recreational needs of urban populations.

(B) Land and water areas of significant environmental importance, such as habitat protection.

(2) The second priority for the acquisition of coastal resources is as follows:

(A) Land for physical and visual access to the coastline where public access opportunities are inadequate or could be impeded by incompatible uses.

(B) Remaining areas of high recreational value.

(C) Areas proposed as a coastal reserve or preserve, including areas that are or include restricted natural communities, including, but not limited to, ecological areas that are scarce, involving only a limited area; rare and endangered wildlife species habitat; rare and endangered plant species range; specialized wildlife habitat; outstanding representative natural communities; sites with outstanding educational value; fragile or environmentally sensitive resources; and wilderness or primitive areas. Areas meeting more than one of these criteria may be considered as especially important.

(D) Highly scenic areas that are or include landscape preservation projects; open areas identified as being of particular value in providing visual contrast to urbanization, in preserving natural landforms and significant vegetation, in providing attractive transitions between natural and urbanized areas, or as scenic open space; and scenic areas or historical districts designated by cities and counties within the coastal zone.

5096.173. (a) The State Coastal Conservancy and the California Coastal Commission shall prepare and adopt priorities, criteria, and procedures for the disbursement and administration of grants of funds made available pursuant to category (2) of subdivision (c) of Section 5096.151 for the implementation of local coastal programs. The procedures shall include provisions that will serve as an incentive to local governments for timely submittal of their local coastal programs, in accordance with the requirements of the California Coastal Act of 1976 (Division 20 (commencing with Section 30000)).

(b) In consultation with the San Francisco Bay Conservation and Development Commission, the State Coastal Conservancy shall prepare and adopt priorities, criteria, and procedures for the disbursement and administration of grants for the implementation of projects in San Francisco Bay.

(c) In consultation with the Santa Monica Mountains Conservancy, the State Coastal Conservancy shall prepare and adopt priorities, criteria, and procedures for the disbursement and administration of grants for the implementation of projects in the Santa Monica Mountains Zone.

(d) The procedures required by this section shall specify the categories of expenditures eligible for grants and shall include procedures for the submittal, review, and approval of applications and the disbursement of grant funds.

5096.174. (a) An application for a grant shall be submitted to the State Coastal Conservancy for preliminary evaluation, review of adequacy, and classification as a park, beach, coastal access, or other project necessary to preserve coastal resource values.

(b) The minimum amount that may be applied for any individual project is one thousand dollars (\$1,000).

(c) Every application for a grant shall comply with the provisions of the California Environmental Quality Act (Division 13 (commencing with Section 21000)).

5096.175. (a) After completing the evaluation, review, and classification of an application, the State Coastal Conservancy shall forward the application to the California Coastal Commission for a determination as to its consistency with the approved land use plan of the applicable local coastal program or to the San Francisco Bay Conservation and Development Commission for a determination as to its consistency with the San Francisco Bay Plan or the Suisun Marsh Protection Plan.

(b) Applications which are determined by the California Coastal Commission to be consistent with the approved land use plan of the applicable local coastal program, or by the San Francisco Bay Conservation and Development Commission to be consistent with the bay or marsh plan, shall be returned to the State Coastal Conservancy for the purpose of disbursing grants consistent with priorities and criteria developed pursuant to Section 5096.173.

(c) Grants for projects in the Santa Monica Mountains Zone shall be disbursed consistent with the provisions of Division 23 (commencing with Section 33000).

5096.176. Funds granted pursuant to category (2) of subdivision (c) of Section 5096.151 may be expended for development, rehabilitation, or restoration only on lands owned by, or subject to a lease or other interest held by, the applicant city, county, or district. If such lands are not owned by the applicant, the applicant shall first demonstrate to the satisfaction of the Executive Officer of the State Coastal Conservancy that the development, rehabilitation, or restoration will provide benefits commensurate with the type and duration of interest in land held by the applicant.

5096.177. No state grant funds may be disbursed until the applicant agrees that any property acquired or developed with such funds shall be used by the applicant only for the purpose for which the funds were requested and that no other use of the property shall be permitted except by specific act of the Legislature.

5096.178. (a) An amount, not to exceed nine hundred thousand dollars (\$900,000) in the aggregate, shall be available for appropriation during the 1980-81, 1981-82, and 1982-83 fiscal years, in amounts to be determined in each annual appropriation, from funds available pursuant to category (2) of subdivision (c) of Section 5096.151, in the manner provided in Section 5096.206, to the State Coastal Conservancy for expenditure for the administration of Sections 5096.173 to 5096.177, inclusive; provided, however, that not more than three hundred fifty thousand dollars (\$350,000) may be appropriated in any one such fiscal year.

(b) An amount, not to exceed five million dollars (\$5,000,000) in the aggregate shall be available for appropriation commencing with the 1980-81 fiscal year from funds available pursuant to category (2) of subdivision (c) of Section 5096.151, in the manner provided in Section 5096.206, for projects in San Francisco Bay; and an amount, not to exceed five million dollars (\$5,000,000) in the aggregate, shall be available, for projects in the Santa Monica Mountains Zone.

#### Article 6. Miscellaneous Provisions

5096.191. Projects authorized for the purposes set forth in

subdivision (b), category (1) of subdivision (c), and subdivision (d) of Section 5096.151 shall be subject to augmentation as provided in Section 16352 of the Government Code, as limited by any provision of the Budget Act. The unexpended balance in any appropriation made payable from the fund which the Director of Finance, with the approval of the State Public Works Board, determines not to be required for expenditure pursuant to the appropriation, may be transferred on order of the Director of Finance to, and in augmentation of, the appropriation made in Section 16352 of the Government Code.

5096.192. The Director of Parks and Recreation may make agreements with respect to any real property acquired pursuant to subdivision (b) and category (1) of subdivision (c) of Section 5096.151, and the Executive Officer of the State Coastal Conservancy may make agreements with respect to any real property acquired pursuant to subdivision (d) of Section 5096.151 for the continued tenancy of the seller of the property for a period of time and under such conditions as mutually agreed upon by the state and the seller so long as the seller promises to pay such taxes on his interest in the property as shall become due, owing, or unpaid on the interest created by such agreement, and so long as the seller conducts his operations on the land according to specifications issued by the appropriate director or officer to protect the property for the public use for which it was acquired. A copy of such agreement shall be filed with the county clerk in the county in which the property lies. Such arrangement shall be compatible with the operation of the area by the state, as determined by the appropriate director or officer.

5096.193. All real property acquired pursuant to this chapter shall be acquired in compliance with the provisions of Chapter 16 (commencing with Section 7260) of Division 7 of Title 1 of the Government Code. The Department of Parks and Recreation or the State Coastal Conservancy, as the case may be, shall prescribe procedures sufficient to assure such compliance by local public agencies.

5096.194. For the purposes of this chapter, acquisition may include gifts, purchases, leases, easements, the exercise of eminent domain if expressly authorized, the transfer or exchange of property for other property of like value, and purchases of development rights and other interests.

5096.195. All grants, gifts, devises, or bequests to the state, conditional or unconditional, for park, conservation, recreation, or other purposes for which real property may be acquired or developed pursuant to this chapter, may be accepted and received on behalf of the state by the appropriate departmental director with the approval of the Director of Finance. Such grants, gifts, devises, or bequests shall be available, when appropriated by the Legislature, for expenditure for the purposes specified in Section 5096.151.

5096.196. Real property acquired by the state shall consist predominantly of open or natural lands, including lands under water capable of being utilized for multiple recreational purposes, and lands necessary for the preservation of coastal or historical resources. No funds derived from the bonds authorized by this division shall be expended for the construction of any reservoir designated as a part of the "State Water Facilities," as defined in subdivision (d) of Section 12934 of the Water Code, but such funds may be expended for the acquisition or development of beaches, parks, recreational facilities, and historical resources at or in the vicinity of any such reservoir.

5096.197. (a) Prior to recommending the acquisition of lands that are located on or near tidelands, submerged lands, swamp or overflowed lands, or other wetlands, whether or not such lands have been granted in trust to a local public agency, the Director of Parks and Recreation or, the Executive Offi-

cer of the State Coastal Conservancy, or the Executive Director of the San Francisco Bay Conservation and Development Commission, as the case may be, shall submit to the State Lands Commission any proposal by a state or local public agency for the acquisition of such lands pursuant to this chapter. The State Lands Commission shall, within three months of such submittal, review such proposed acquisition, make a determination as to the state's existing or potential interest in the lands, and report its findings to the person making the submittal and to the Department of General Services.

(b) No provision of this chapter shall be construed as authorizing the condemnation of state lands.

#### Article 7. Fiscal Provisions

5096.201. Bonds in the total amount of two hundred eighty-five million dollars (\$285,000,000), 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 this chapter and to be used to reimburse the General Obligation Bond Expense Revolving Fund pursuant to Section 16724.5 of the Government Code. The bonds shall, when sold, 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 the bonds as the principal and interest become due and payable.

5096.202. There shall be collected each year and in the same manner and at the same time as other state revenue is collected such a sum in addition to the ordinary revenues of the state as shall be required to pay the principal and interest on the bonds maturing each year, and it is hereby made the duty of all officers charged by law with any duty in regard to the collection of the revenue to do and perform each and every act which shall be necessary to collect that additional sum.

5096.203. There is hereby appropriated from the General Fund in the State Treasury for the purpose of this chapter, 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 chapter, as principal and interest become due and payable.

(b) Such sum as is necessary to carry out the provisions of Section 5096.205, which sum is appropriated without regard to fiscal years.

5096.204. The proceeds of bonds issued and sold pursuant to this chapter shall be deposited in the Parklands Fund of 1980, which is hereby created. The money in the fund may be expended only for the purposes specified in this chapter and only pursuant to appropriation by the Legislature in the manner prescribed in this chapter.

5096.205. For the purposes of carrying out the provisions of this article, 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 chapter. Any moneys deposited in the fund for expenditure for the purposes of subdivision (d) of Section 5096.151 shall be transferred to the State Coastal Conservancy upon appropriation by the Legislature in the manner provided in Section 5096.206. Any moneys deposited in the fund for expenditure for the purposes of subdivision (e) of Section 5096.151 shall be appropriated to the Department of Parks and Recreation in the manner provided in Section 5096.206. Any amounts withdrawn shall be deposited in the fund. Any moneys made available under this section shall be returned to the General Fund from moneys received from the sale of bonds for the purpose of carrying out the provisions of this chapter.

5096.206. All proposed appropriations for the program shall be included in a section in the Budget Bill for the 1980-81 fiscal year and each succeeding fiscal year for consideration by the Legislature and shall bear the caption "Parklands Acquisition and Development Program." The section shall contain separate items for each project, each class of projects, or each element of the program for which an appropriation is made.

All appropriations shall be subject to all limitations enacted in the Budget Act and to all fiscal procedures prescribed by law with respect to the expenditure of state funds unless expressly exempted from such laws by a statute enacted by the Legislature. Such section shall contain proposed appropriations only for the program elements and classes of projects contemplated by this chapter, and no funds derived from the bonds authorized by this chapter may be expended pursuant to an appropriation not contained in such section of the Budget Act.

5096.207. The bonds authorized by this chapter 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 that law are applicable to the bonds and to this chapter and are hereby incorporated in this chapter as though set forth in full herein.

5096.208. For the purpose of authorizing the issuance and sale, pursuant to the State General Obligation Bond Law, of the bonds authorized by this chapter, the Parklands Program Finance Committee is hereby created. The committee consists of the Governor, the State Controller, the Director of Finance, the State Treasurer, and the Secretary of the Resources Agency. For the purposes of this chapter, the Parklands Program Finance Committee shall be "the committee" as that term is used in the State General Obligation Bond Law,

and the State Treasurer shall serve as chairman of the committee. The Secretary of the Resources Agency is hereby designated as "the board" for the purposes of the State General Obligation Bond Law.

5096.209. As used in this chapter, and for the purposes of the State General Obligation Bond Law, "state grant" or "state grant moneys" means moneys received by the state from the sale of bonds authorized by this chapter which are available for grants to counties, cities, districts, and public agencies.

5096.210. All money deposited in the fund which is derived from premium and accrued interest on bonds sold shall be reserved in such depositories and shall be available for transfer to the General Fund as a credit to expenditures for bond interest.

5096.211. Commencing with the Budget Bill for the 1990-91 fiscal year, the balance remaining in the fund may be appropriated by the Legislature for expenditure, without regard to the maximum amounts allocated to each element of the program, for any or all elements of the program specified in Section 5096.151, or any class or classes of projects within such elements, that the Legislature deems to be of the highest priority.

5096.212. The Legislature hereby finds and declares that, inasmuch as the proceeds from the sale of bonds authorized by this chapter are not "proceeds of taxes" as that term is used in Article XIII B of the California Constitution, the disbursement of these proceeds is not subject to the limitations imposed by that article.

5096.213. If any provision of this chapter or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the chapter which can be given effect without the invalid provision or application, and to this end, the provisions of this chapter are severable.

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moneys in the funds shall be available for expenditure in accordance with this division by the California Tahoe Conservancy Agency. Moneys in the fund shall be available for expenditure for the following purposes:

(a) For the acquisition of lands threatened with development that will adversely affect the region's natural environment, will adversely affect the use, management, or protection of public lands in the vicinity of the development, or will have a combination of such effects. In particular, preference shall be given to the acquisition of lands within stream environment zones and other lands that, if developed, would be likely to erode or contribute to the further eutrophication or degradation of the waters of the region due to that or other causes. "Stream environment zone" means that area which surrounds a stream, including major streams, minor streams, and drainage ways; which owes its biological and physical characteristics to the presence of water; which may be inundated by a stream; or in which actions of man or nature may directly or indirectly affect the stream. A stream includes small lakes, ponds, and marshy areas through which the stream flows. Acquisitions made pursuant to this subdivision are not intended to replace, wholly or partially, the exercise of any authority conferred by law for the protection of the region's natural environment, including stream environment zones, or the protection of public lands and resources. Accordingly, every public official or agency responsible for the administration or enforcement of any law having any of those purposes shall continue to administer or enforce such law with respect to lands acquired pursuant to this title, notwith-

standing the making of any acquisition pursuant to this subdivision.

(b) For the acquisition of lands whose primary use will be public lakeshore access, preservation of riparian or littoral wildlife habitat, or recreation, or a combination thereof.

(c) For the acquisition of lands that do not satisfy the requirements of either subdivision (a) or (b) but which, if acquired, would facilitate one or both of the following:

(1) Consolidation of lands for their more effective management as a unit.

(2) Provision of public access to other public lands.

As used in this section, "undeveloped land" includes land that has been subdivided and improved with streets and utilities, but does not have structures other than those related to such streets and utilities.

66958. (a) When sold, the bonds authorized by this title shall constitute valid and legally binding general obligations of the State of California, and the full faith and credit of the State of California is hereby pledged for the punctual payment of both principal and interest thereon.

(b) There shall be collected annually in the same manner and at the same time as other state revenue is collected such a sum, in addition to the ordinary revenues of the state, as shall be required to pay the interest and principal on the bonds maturing each year, and it is hereby made the duty of all officers charged by law with any duty in regard to the collection of the revenue to do and perform each and every act which shall be necessary to collect that additional sum.

(c) All money deposited in the fund which has been derived from premium and accrued interest on bonds sold

shall be available for transfer to the General Fund as a credit to expenditures for bond interest.

(d) If the value of any land to be purchased by the agency has been substantially reduced by any statute, ordinance, rule, regulation, or other order adopted after January 1, 1980, by state or local government for the purpose of protecting water quality or other resources in the region, the agency may purchase the land for a price it determines would assure fairness to the landowner. In determining the price to be paid for the land, the agency may consider the price which the owner originally paid for the land, any special assessments paid by the landowner, and any other factors the agency determines should be considered to ensure that the landowner receives a fair and reasonable price for the land.

66959. All money deposited in the fund pursuant to any provision of law requiring repayments to the state for assistance financed by the proceeds of the bonds authorized by this title shall be available for transfer to the General Fund. When transferred to the General Fund such money shall be applied as a reimbursement to the General Fund on account of principal and interest on the bonds which has been paid from the General Fund.

66960. There is hereby appropriated from the General Fund in the State Treasury for the purpose of this title, such an amount as will equal the following:

(a) That sum annually as will be necessary to pay the principal of and the interest on the bonds issued and sold pursuant to the provisions of this title, as principal and interest become due and payable.

(b) That sum as is necessary to carry out the provisions of

Section 66961, which sum is appropriated without regard to fiscal years.

66961. For the purpose of carrying out the provisions of this title, 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 the committee has by resolution authorized to be sold for the purpose of carrying out this title. Any amounts withdrawn shall be deposited in the fund and shall be disbursed by the board in accordance with this title.

66962. The committee may authorize the State Treasurer to sell all or any part of the bonds herein authorized at such time or times as may be fixed by the Treasurer.

66963. All proceeds from the sale of bonds, except those derived from premiums and accrued interest, shall be available for the purpose provided in Section 66957 but shall not be available for transfer to the General Fund to pay principal and interest on bonds. The money in the fund may be expended only as herein provided.

66964. All proposed appropriations for the programs specified in this title, shall be included in a section in the Budget Bill for the 1980-81 and each succeeding fiscal year, for consideration by the Legislature. All appropriations shall be subject to all limitations enacted in the Budget Act and to all fiscal procedures proscribed by law with respect to the expenditures of state funds, unless expressly exempted from such laws by a statute enacted by the Legislature. No funds derived from the bonds authorized by this title may be expended pursuant to an appropriation not contained in such section of the Budget Act.

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(4) An action or proceeding to require the State Water Resources Development System to comply with subdivision (b) of Section 11460 of the Water Code.

(5) An action or proceeding to require the Department of Water Resources or its successor agency to comply with the permanent agreement specified in subdivision (a) of Section 11256 of the Water Code.

(6) An action or proceeding to require the Department of Water Resources or its successor agency to comply with the provisions of the contracts entered into pursuant to Section 11456 of the Water Code.

(b) An action or proceeding described in paragraph (1) of subdivision (a) shall be commenced within one year after the effective date of the statute enacted by Senate Bill No. 200 of the 1979-80 Regular Session of the Legislature. Any other action or proceeding described in subdivision (a) shall be commenced within one year after the cause of action arises unless a shorter period is otherwise provided by statute.

(c) The superior court or a court of appeals shall give preference to the actions or proceedings described in this section over all civil actions or proceedings pending in the court. The superior court shall commence hearing any such action or proceeding within six months after the commencement of the action or proceeding, provided that any such hearing may be delayed by joint stipulation of the parties or at the discretion of the court for good cause shown. The provisions of this section shall supersede any provisions of law requiring courts to give preference to other civil actions or proceedings. The provisions of this subdivision may be enforced by mandamus.

(d) The Supreme Court shall, upon the request of any party, transfer to itself, before a decision in the court of appeal, any appeal or petition for extraordinary relief from an action or proceeding described in this section, unless the Supreme Court determines that the action or proceeding is un-

likely to substantially affect (1) the construction, operation, or maintenance of the peripheral canal unit described in subdivision (a) of Section 11255 of the Water Code, (2) compliance with subdivision (b) of Section 11460 of the Water Code, (3) compliance with the permanent agreement specified in Section 11256 of the Water Code, or (4) compliance with the provisions of the contracts entered into pursuant to Section 11456 of the Water Code. The request for transfer shall receive preference on the Supreme Court's calendar. If the action or proceeding is transferred to the Supreme Court, the Supreme Court shall commence to hear the matter within six months of the transfer unless the parties by joint stipulation request additional time or the court, for good cause shown, grants additional time.

(e) The remedy prescribed by the court for an action or proceeding described in paragraph (4), (5), or (6) of subdivision (a) shall include, but need not be limited to, compliance with subdivision (b) of Section 11460 of the Water Code, the permanent agreement specified in Section 11256 of the Water Code, or the provisions of the contracts entered into pursuant to Section 11456 of the Water Code.

(f) The Board of Supervisors of the County of Sacramento may apply to the State Board of Control for actual costs imposed by the requirements of this section upon the county, and the State Board of Control shall pay such actual costs.

(g) Notwithstanding the provisions of this section, nothing in this Article shall be construed as prohibiting the Supreme Court from exercising the transfer authority contained in Article VI, Section 12 of the Constitution.

SEC. 7. State agencies shall exercise their authorized powers in a manner consistent with the protections provided by this article.

SEC. 8. This article shall have no force or effect unless Senate Bill No. 200 of the 1979-80 Regular Session of the Legislature is enacted and takes effect.

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designated pursuant to this Chapter shall be consistent with the purpose and intent of this Chapter and shall conform with the following criteria:

(a) Smoking and no smoking sections need not be separated by walls, partitions or other barriers. No construction or erection of walls, partitions or other barriers shall be required to comply with this Chapter.

(b) Facilities and areas in which it would be inappropriate to limit smoking (including, but not limited to, any enclosed room normally occupied exclusively by persons who smoke; hotel and motel rooms designed for rental to overnight guests; and areas used for private social functions while being so used) may be designated in their entirety as smoking areas.

(c) Facilities and areas in which it would be impractical to create smoking and no smoking sections (including, but not limited to, elevators, buses and, except for tobacco stores, those portions of retail stores open to the public) shall be designated in their entirety as no smoking areas.

(d) Any employee working in an enclosed place of employment who desires his or her work station to be in a no smoking section or area shall be so accommodated.

(e) Smoking shall not be limited in private hospital rooms. Smoking may be permitted in semi-private hospital rooms and wards only if all patients therein have requested to be placed in a room in which smoking is permitted.

(f) Notwithstanding any other provision of this Chapter, any facility or area may be designated in its entirety as a no smoking area by the owner or manager thereof.

**§ 25935 Signs**

(a) Except in facilities owned and used or leased and used by governmental entities subject to this Chapter, clearly legible signs shall be conspicuously posted in every no smoking section and no smoking area established pursuant to this Chapter stating that smoking therein is unlawful. Such signs shall be sufficiently large and numerous as to give reasonable notice to all persons in a no smoking section or no smoking area that smoking is unlawful there. Such posting shall be the obligation of the lessee of leased premises and the obligation of the owner of premises which are not leased.

(b) In any facility owned and used or leased and used by a governmental entity subject to this Chapter, clearly legible signs shall be conspicuously posted indoors at every entrance to the facility. Such signs shall state that smoking is unlawful throughout such facility except in designated smoking areas and in single-occupant offices. No such governmental entity shall pay more than fifty cents (plus a reasonable adjustment for inflation since November 15, 1979) for any sign referred to in this Subsection. Such governmental entities shall use existing resources to install such signs and shall not request or obtain increased budgetary allocations to install such signs.

(c) Notwithstanding any other provision of this Section, the Standards adopted pursuant to Section 25939 shall set forth areas, facilities and entrances where the posting of no smoking signs is unnecessary to fulfill the purpose of this Chapter including, but not limited to, entrances to elementary school classrooms. No signs need be posted in such areas and facilities or at such entrances.

(d) Notwithstanding any other provision of this Section, in any no smoking section or area in which signs indicating that smoking is not permitted are already conspicuously posted on the date this measure is approved by the electorate, signs otherwise required by this Section need not be posted until such pre-existing signs are worn out or removed.

**§ 25936 Violations**

(a) Violation of any provision of this Chapter is an infraction. Any person who violates any provision of this Chapter shall be subject to a fine of \$15 per violation.

(b) Enforcement of this Chapter shall be by citation. No person may be taken into custody or be subject to search by peace officers solely because of the violation or suspected violation of this Chapter.

(c) Each day on which a violation of the sign-posting requirements of this Chapter occurs shall be a distinct and separate violation.

(d) Enforcement of the sign-posting requirements of this Chapter shall be by the State Department of Health Services, local health departments and local law enforcement departments. Enforcement of all other provisions of this Chapter shall be by local law enforcement departments.

**§ 25937 No Discrimination**

No person shall discharge, refuse to hire, or in any manner discriminate against any employee or applicant for employment because such employee or applicant exercises any rights afforded by this Chapter.

**§ 25938 No Preemption**

It is not intended that this Chapter preempt the field of smoking legislation. The State Legislature, local governing bodies and state and local administrative agencies may enact further legislation and regulations to protect the health, comfort and environment of nonsmokers. This Chapter does not permit smoking where otherwise restricted by law.

**§ 25939 Standards**

(a) Within 90 days after approval of this measure by the electorate, the State Department of Health Services shall adopt specific Standards in accordance with Chapter 4.5 (commencing with Section 11371, Part 1, Division 3, Title 2 of the Government Code) to implement the provisions of this Chapter. The Standards shall, among other things, specify those facilities and areas which may be designated in their entirety as smoking areas pursuant to Section 25934(b) and which shall be designated in their entirety as no smoking areas pursuant to Section 25934(c). The Standards may be amended in accordance with Chapter 4.5 of the Government Code.

(b) The State Department of Health Services shall have exclusive administrative jurisdiction under this Chapter with respect to the issuance of Standards for the establishment and designation of smoking and no smoking sections and areas in places of employment.

(c) The State Department of Health Services shall use existing resources and shall not request or obtain increased budgetary allocations to carry out its duties under this Chapter. No special bureaucracy shall be created within the State Department of Health Services or within any other governmental agency for the administration of this Chapter or the Standards.

**§ 25939.1 Definitions**

(a) "Place of Employment" means any area under the control of a public or private employer which employees normally frequent during the course of employment, including, but not limited to, work areas, employee lounges, meeting rooms, and employee cafeterias. A private residence is not a "place of employment."

(b) "Public Place" means any area to which the public is invited or in which the public is permitted, including, but not limited to, restaurants, theaters, waiting rooms, reception areas and instrumentalities of public transportation. A private residence is not a "public place."

(c) "Second-hand Smoke" means both smoke from the burning ends of cigarettes, cigars and pipes and smoke exhaled by persons who smoke.

(d) "Smoking" or to "Smoke" means and includes the carrying or holding of a lighted cigarette, cigar, pipe or any other lighted smoking equipment used for the practice commonly known as smoking, or the intentional inhalation or exhalation

of smoke from any such lighted smoking equipment.

(e) "State Department of Health Services" means such Department or any successor thereof.

(f) Any facility or area which qualifies as both a "Place of Employment" and as a "Public Place" shall be treated for purposes of this Chapter solely as a "Public Place."

(g) The Standards adopted pursuant to Section 25939 shall contain such other definitions as the State Department of Health Services shall deem appropriate.

**§ 25939.2 Amendment**

With the exception of this Section, Section 25937 and the purpose and intent expressed in Sections 25932 and 25938, this Chapter may be amended by the State Legislature; provided, however, that any amendment to this Chapter shall be con-

sistent with such purpose and intent.

**§ 25939.3 Severability**

If any provision of this Chapter or the application thereof to any person or circumstance is held invalid, any 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 severable.

**SECTION 2: Effective Date**

Chapter 10.7 of the Health and Safety Code shall become effective 120 days after approval by the electorate; provided, however, that the duty of the State Department of Health Services to begin the process of promulgating Standards thereunder shall become effective immediately.

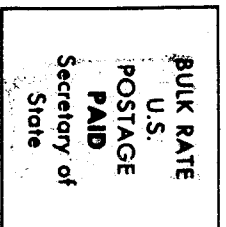
**If you have any questions on voting  
call your County Clerk or  
Registrar of Voters**

MARCH FONG EU

Secretary of State

1230 J STREET

SACRAMENTO, CA 95814



In an effort to reduce election costs, the State Legislature has authorized the Secretary of State and counties having this capability to mail only one ballot pamphlet to addresses where more than one voter with the same surname resides. If you wish additional copies, you may obtain them by calling or writing to your county clerk or registrar of voters

CERTIFICATE OF SECRETARY OF STATE

I, March Fong Eu, 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 4, 1980, and that the foregoing pamphlet has been correctly prepared in accordance with law.

Witness my hand and the Great Seal of the State in Sacramento, California, this 1st day of August 1980.

*March Fong Eu*

MARCH FONG EU  
Secretary of State



**EXEMPTION  
EXEMPTION**