1996

Voter Information Guide for 1996, General Election

California

BALLOT PAMPHLET

Important Notice to Voters
Information regarding measures that might be placed on the ballot by the Legislature after August 12, 1996 will be included in a supplemental ballot pamphlet that will be mailed to you. You can also obtain one from your county elections office or by calling 1-800-345-VOTE.

General Election

NOVEMBER 5, 1996

CERTIFICATE OF CORRECTNESS

I, Bill Jones, Secretary of State of the State of California, do hereby certify that the measures included herein will be submitted to the electors of the State of California at the GENERAL ELECTION to be held throughout the State on November 5, 1996, and that this pamphlet has been correctly prepared in accordance with law.

Witness my hand and the Great Seal of the State in Sacramento, California, this 12th day of August, 1996.

BILL JONES
Secretary of State

Secretary of State

Dear Voter:

On November 5, 1996, you will have an opportunity to have your voice heard when you go to the polls on election day. Not only will you have a say on who becomes the next U.S. President but you can also help determine the fate of issues that will help shape the future of our state, from water to healthcare to campaign reform to minimum wage, the decisions are in your hands. Consequently, you can understand the significance of the upcoming election—one in which every eligible voter must participate!

To help you prepare for the election, this ballot pamphlet contains comprehensive summaries, legislative analyses and arguments on 15 ballot propositions that will appear on the November ballot. We urge you to please take the time to read each measure carefully *before* going to the polls. And on November 5, 1996, you will be prepared to cast your ballot with confidence!

To help increase voter registration and participation in the November 5, 1996, election, the Secretary of State's office has launched a full-fledged voter outreach campaign designed to reach *every* voting-age citizen in California. With a goal of 100 percent voter registration and participation with absolutely zero percent tolerance for fraud, the outreach campaign includes: statewide radio and television public service announcements; voter registration displays in McDonald's restaurants; "You've Got the Power" and "Mock Elections" school-based programs; drive-up voter registration campaigns in northern and southern California; and register-to-vote messages on paycheck stubs, ATM receipts, buses, billboards, etc.—just to name a few.

The Secretary of State's office is committed to raising the level of voter participation in California. If you know anyone who is not registered to vote and would like to do so, please have them call the Secretary of State's 24-hour Voter Registration and Election Fraud Hot-Line at 1-800-345-VOTE to receive a voter registration form.

The 1-800-345-VOTE hot-line can also be used to report any incidents of election fraud, tampering or other election-oriented irregularities. You may also contact your county registrar of voters or district attorney to report any instances of election-related misconduct. The complete elimination of fraud and the potential for it is one of the Secretary of State's top priorities. Anyone found in violation of the elections laws will be prosecuted to the fullest extent.

Let's work together to make this election the most fair, honest and participatory election ever! The future of California depends on it.

Please note that Proposition 204 is the first proposition for this election. To avoid confusion with past measures, the Legislature passed a law which requires propositions to be numbered consecutively starting with the next number after those used in the November 1982 General Election. Commencing with the November 1998 General Election, the numbering will begin again with the number "1." This numbering scheme will run in ten-year cycles.

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November 5, 1996, Ballot Measures

	SUMMARY	WHAT YOUR VOTE MEANS	
		YES	NO
204 **SAFE, CLEAN, RELIABLE WATER SUPPLY ACT.** Bond Act Put on the Ballot by the Legislature	This act provides for a bond issue of nine hundred ninety-five million dollars ($995,000,000) to provide funds to ensure safe drinking water, increase water supplies, clean up pollution in rivers, streams, lakes, bays, and coastal areas, protect life and property from flooding, and protect fish and wildlife and makes changes in the Water Conservation and Water Quality Bond Law of 1986 and the Clean Water and Water Reclamation Bond Law of 1988 to further these goals. Fiscal Impact: General Fund cost of up to $1.8 billion to pay off both the principal ($995 million) and interest ($776 million). The average payment for principal and interest over 25 years would be up to $71 million per year.	A **YES** vote on this measure means: The state would be able to issue $995 million in general obligation bonds for restoration and improvement of the San Francisco Bay/Sacramento-San Joaquin Delta Estuary; wastewater treatment and water supply and conservation; and local flood control and prevention.	A **NO** vote on this measure means: The state would not be able to issue bonds for these purposes.
205 **YOUTHFUL AND ADULT OFFENDER LOCAL FACILITIES BOND ACT OF 1996.** Bond Act Put on the Ballot by the Legislature	This act provides for a bond issue of seven hundred million dollars ($700,000,000) to provide funds for the construction, renovation, remodeling, and replacement of local juvenile and adult correctional facilities. Fiscal Impact: General Fund costs of $1.25 billion to repay principal and interest, with annual payments averaging $50 million for 25 years. Unknown costs, potentially millions of dollars annually, to counties to operate new facilities.	A **YES** vote on this measure means: The state would be able to issue $700 million in general obligation bonds to finance local facilities for juvenile and adult offenders.	A **NO** vote on this measure means: The state would not be able to issue bonds for that purpose.
206 **VETERANS' BOND ACT OF 1996.** Bond Act Put on the Ballot by the Legislature	This act provides for a bond issue of four hundred million dollars ($400,000,000) to provide farm and home aid for California veterans. Fiscal Impact: General Fund cost of about $700 million to pay off both the principal ($400 million) and interest (about $300 million) on the bonds, with an average annual payment for 25 years of about $28 million to retire this debt; costs offset by payments from participating veterans.	A **YES** vote on this measure means: The state would be able to issue $400 million in general obligation bonds to provide loans for the veterans' farm and home purchase (Cal-Vet) program.	A **NO** vote on this measure means: The state would not be able to issue bonds for this purpose.
207 **ATTORNEYS. FEES. RIGHT TO NEGOTIATE. FRIVOLOUS LAWSUITS.** Initiative Statute Put on the Ballot by Petition Signatures	Except as allowed by laws in effect on January 1, 1995, prohibits restrictions on the right to negotiate amount of attorneys' fees. Prohibits attorneys from charging excessive fees. Authorizes court to impose sanctions for filing frivolous lawsuit or pleading. Fiscal Impact: Unknown, but probably not significant, net fiscal impact on state and local governments.	A **YES** vote on this measure means: It would be more difficult for the Legislature to change laws concerning attorney-client fee agreements. Courts and the State Bar would be required to sanction or recommend disciplinary measures against attorneys who file frivolous legal actions. Attorneys would not receive fees for cases in which they were sanctioned by the court for a frivolous legal action.	A **NO** vote on this measure means: There would be no change in the Legislature's ability to change laws concerning attorney-client fee agreements. Courts and the State Bar would retain discretion on when to sanction or recommend disciplinary measures against attorneys who file frivolous legal actions. An attorney may receive legal fees in cases where he or she has been sanctioned for a frivolous legal action.
208 **CAMPAIGN CONTRIBUTIONS AND SPENDING LIMITS. RESTRICTS LOBBYISTS.** Initiative Statute Put on the Ballot by Petition Signatures	Limits campaign contributions to $500 statewide elections, $250 large districts, $100 smaller districts. Incentives for voluntary spending limits. Prohibits lobbyist contributions. Fiscal Impact: Costs of up to $4 million annually to state and local governments for implementation and enforcement; unknown, but probably not significant, state and local election costs.	A **YES** vote on this measure means: Campaign contributions by an individual would be limited to $250 for legislative and local offices and $500 for statewide offices. These limits approximately double for candidates who accept voluntary campaign spending limits. The voluntary spending limits for general elections would be $200,000 for state Assembly, $400,000 for state Senate, $2 million for statewide office (other than Governor), and $8 million for Governor. The measure establishes voluntary spending limits for local elections.	A **NO** vote on this measure means: There would continue to be no limits on political campaign contributions to candidates for state office. There would be no limits on the amounts of money that candidates, their campaign committees, or other support groups can spend in any state election. Local governments could establish their own campaign finance limits.

ARGUMENTS		WHOM TO CONTACT FOR MORE INFORMATION	
PRO	**CON**	**FOR**	**AGAINST**
Provides a balanced solution to California's water supply needs that enhances our economy while protecting the environment. According to State Treasurer Matt Fong, "*Proposition* 204's $995 million investment in the state's water supply and delivery system is a very prudent investment to sustain and expand California's $750 *billion* economy."	What "water crisis"? State government has a record of damaging the environment rather than protecting it. We don't know if these projects are worthwhile. They should be voted on and funded at the local level. Prop. 204 will cost $1.7 *billion* in principal and interest over 25 years.	Californians for Safe, Clean, Reliable Water 10866 Wilshire Boulevard, Suite 550 Los Angeles, CA 90024-4303 (310) 441-9380	Libertarian Party of California 1800 Market Street, Suite 16 San Francisco, CA 94102 1-800-637-1776
California Sheriffs, Police Chiefs, District Attorneys and Crime Victims United agree—we need Proposition 205 to build and improve local jails and juvenile halls. Your *yes* vote on Prop. 205 will keep violent criminals off our streets and behind bars where they belong.	Prop. 205 will cost $1.2 *billion* in principal and interest. We don't need more jails; change law enforcement priorities instead. "3 Strikes" should be three violent felonies. The current method clogs jails. 50% of crimes are drug-related. The "war on drugs" has failed. Legalize drugs to cut crime.	Jim Brulte, Assemblyman State Capitol Sacramento, CA 95814 (916) 445-8490	Libertarian Party of California 1800 Market Street, Suite 16 San Francisco, CA 94102 1-800-637-1776
This act provides for a general obligation bond issue of four hundred million dollars ($400,000,000) to provide funding for the purchase by wartime veterans of farms and homes under the Cal-Vet program. The Cal-Vet program is entirely self-supporting and costs the taxpayer nothing.	The federal government provides extensive veterans' benefits, including VA home loans. The state doesn't need to duplicate this. Foreclosures are at an all-time high. If veterans don't pay these loans, taxpayers would have to pay. Banks offer low-down home loans. Veterans can apply if they have good credit.	Senator Don Rogers State Capitol Sacramento, CA 95814 (916) 445-5798 Attention: David Grafft	Libertarian Party of California 1800 Market Street, Suite 16 San Francisco, CA 94102 1-800-637-1776
Frivolous lawsuits can be stopped. Proposition 207 takes away *all* the fees from lawyers when a judge rules their lawsuit is frivolous. After three frivolous lawsuits—they can lose their license. Proposition 207 was written by responsible consumer attorneys. It punishes bad lawyers without taking away consumers' contingency fee protections.	Vote *no* on 207: A smokescreen by ambulance-chasing lawyers that guarantees their ability to take outrageous fees. Propositions 207 and 211 contain "hidden" language to protect excessive fees. We'll pay for their greed in higher insurance and health care costs. 207 and 211 damage consumers and seniors. Vote *no*.	Hilary McLean Consumer Attorneys of California (916) 442-6902	Association for California Tort Reform (916) 443-4900 Fax: (916) 443-4306 Website: http://www.actr.com/actr/
Yes on *Prop.* 208: *genuine campaign reform.* Prop. 208 will *get big money out of politics,* making politicians accountable to the voters, not big campaign contributors. This practical solution to special-interest influence, sponsored by League of Women Voters and AARP, will be the nation's toughest campaign reform law.	208 doesn't limit out-of-district campaign contributions to politicians. It sets contribution limits too high for ordinary Californians. 208 gives favored treatment to candidates with wealthy special interest backers. 208's "spending limits" are only voluntary. It costs taxpayers millions. 208 is too little, too late. Yes on 212 instead.	Californians for Political Reform, A Committee Sponsored by League of Women Voters of California, American Association of Retired Persons-California (AARP), Common Cause and United We Stand America 926 J Street, Suite 910 Sacramento, CA 95814 (916) 444-0834 www.vida.com/cfr	Californians Against Political Corruption 11965 Venice Blvd., Suite 408 Los Angeles, CA 90066 (310) 397-3404 http://www.best.com/~myk/fedup/

November 5, 1996, Ballot Measures—Continued

	SUMMARY	WHAT YOUR VOTE MEANS	
		YES	NO
209 **PROHIBITION AGAINST DISCRIMINATION OR PREFERENTIAL TREATMENT BY STATE AND OTHER OTHER PUBLIC ENTITIES.** Initiative Constitutional Amendment Put on the Ballot by Petition Signatures	Generally prohibits discrimination or preferential treatment based on race, sex, color, ethnicity, or national origin in public employment, education, and contracting. Fiscal Impact: Could affect state and local programs that currently cost well in excess of $125 million annually. Actual savings would depend on various factors (such as future court decisions and implementation actions by government entities).	A **YES** vote on this measure means: The elimination of those affirmative action programs for women and minorities run by the state or local governments in the areas of public employment, contracting, and education that give "preferential treatment" on the basis of sex, race, color, ethnicity, or national origin.	A **NO** vote on this measure means: State and local government affirmative action programs would remain in effect to the extent they are permitted under the United States Constitution.
210 **MINIMUM WAGE INCREASE.** Initiative Statute Put on the Ballot by Petition Signatures	Increases the state minimum wage for all industries to $5.00 per hour on March 1, 1997, and to $5.75 per hour on March 1, 1998. Fiscal Impact: Unknown impact on government revenues. Annual wage-related costs to state and local governments of $120 million to $300 million (depending on federal action), partly offset by net savings, in the low tens of millions, in health and welfare programs.	A **YES** vote on this measure means: California's minimum wage will increase to $5.00 per hour beginning March 1, 1997, and to $5.75 per hour beginning March 1, 1998.	A **NO** vote on this measure means: California's minimum wage will not be raised beyond the level required by current law.
211 **ATTORNEY-CLIENT FEE ARRANGEMENTS. SECURITIES FRAUD. LAWSUITS.** Initiative Statute Put on the Ballot by Petition Signatures	Prohibits restrictions on attorney-client fee arrangements, except as allowed by laws existing on January 1, 1995. Prohibits deceptive conduct by any person in securities transactions resulting in loss to retirement funds, savings. Imposes civil liability, punitive damages. Fiscal Impact: Probably minor net fiscal impact on state and local governments.	A **YES** vote on this measure means: The law will be broadened to make it easier for an individual to sue for securities fraud particularly in cases involving retirement investments. Also, the Legislature could no longer change the laws concerning any attorney-client fee agreements.	A **NO** vote on this measure means: Current law regarding securities fraud will remain unchanged. Also, the Legislature could still change the laws concerning any attorney-client fee agreements.
212 **CAMPAIGN CONTRIBUTIONS AND SPENDING LIMITS. REPEALS GIFT AND HONORARIA LIMITS. RESTRICTS LOBBYISTS.** Initiative Statute Put on the Ballot by Petition Signatures	Repeals gift/honoraria limits. Limits contributions to $200 in state and $100 in other campaigns. Imposes spending limits. Prohibits lobbyist contributions. Fiscal Impact: Costs of up to $4 million annually to state and local governments for implementation and enforcement; unknown, but probably not significant, state and local election costs. Increases state revenues about $6 million by eliminating tax deduction for lobbying.	A **YES** vote on this measure means: Campaign contributions by an individual would be limited to $100 for state legislative and local offices and $200 for statewide offices. Mandatory campaign spending limits for state and local offices would be established; if the limits are invalidated by the courts, they would become voluntary. The spending limits for general elections would be $150,000 for state Assembly, $235,000 for state Senate, $1.75 million for statewide offices (other than Governor), and $5 million for Governor. Current restrictions on public officials receiving gifts and honoraria would be eliminated. Current tax deductions for lobbying expenses would be eliminated.	A **NO** vote on this measure means: There would continue to be no limits on political campaign contributions to candidates for state office. There would be no limits on the amounts of money that candidates, their campaign committees, or other support groups can spend in any state election. Local governments could establish their own campaign finance limits. Current restrictions on public officials receiving gifts and honoraria would be maintained. Lobbying expenses would remain tax deductible.
213 **LIMITATION ON RECOVERY TO FELONS, UNINSURED MOTORISTS, DRUNK DRIVERS.** Initiative Statute Put on the Ballot by Petition Signatures	Denies recovery of all damages to convicted felons for crime-related injury. Denies recovery of noneconomic damages (e.g., pain, suffering) to drunk drivers, if convicted, and most uninsured motorists. Fiscal Impact: Probably minor net fiscal impact on state and local government.	A **YES** vote on this measure means: Uninsured drivers or drivers convicted of driving under the influence of alcohol or drugs at the time of an accident could no longer sue someone who was at fault for the accident for noneconomic losses (such as pain and suffering). Also, a person convicted of a felony could no longer sue for injuries suffered while committing the crime or fleeing from the crime scene if injuries were a result of negligence.	A **NO** vote on this measure means: Individuals could still sue for injuries that resulted from an accident that occurred while they were breaking certain laws.

November 5, 1996, Ballot Measures—Continued

ARGUMENTS		WHOM TO CONTACT FOR MORE INFORMATION	
PRO	**CON**	**FOR**	**AGAINST**
Proposition 209, the California Civil Rights Initiative, is the right thing to do. It ends government-sponsored discrimination by rejecting quotas, preferences and set-asides. It saves tax dollars currently wasted on high-bid contracts. Proposition 209 increases California's commitment to fighting sex and race discrimination. Vote Yes.	*Proposition 209 goes too far eliminating equal opportunity affirmative action programs for qualified women and minorities.* It permits gender discrimination by state and local governments through a legal loophole. Politicians exploit 209 for their own political opportunism. General Colin Powell has spoken out against 209. *Vote no on 209!!!*	California Civil Rights Initiative Yes on 209 Box 67278 Los Angeles, CA 90067 (310) 286-2274 E-Mail: ccri@earthlink.net http://www.publicaffairsweb.com/ccri Ward Connerly, Chairman Glynn Custred and Tom Wood, co-authors	Chris Taylor 8170 Beverly Boulevard, Suite 205 Los Angeles, CA 90048 (213) 782-1144
Because of inflation, California's minimum wage buys less today than at any time in the past 40 years. Proposition 210 restores the purchasing power of the minimum wage, and makes work more rewarding than welfare. League of Women Voters, Congress of California Seniors, Consumer Federation of California support Proposition 210.	The likely federal minimum wage hike will hurt enough. Proposition 210 will make California's minimum wage higher than the federal level and any other state. This will mean *inflation, less jobs* for the young and unskilled, *more* people on government assistance, *higher* taxpayers' costs and *more* hardships for small businesses.	Liveable Wage Coalition 660 Sacramento Street, Suite 202 San Francisco, CA 94111 (415) 616-5150 E-Mail: LIVINGWAGE@AOL.com http://www.prop210.org	Alliance to Protect Small Businesses & Jobs 268 Bush Street, #3431 San Francisco, CA 94104 Web site: www.prop210no.org
Fraud must be punished. Prosecutors are swamped by fraud cases. Proposition 211 punishes white collar cheaters who "willfully, knowingly, or recklessly" defraud people out of their pension or retirement savings. Proposition 211 helps victims get their money back and holds corporate executives personally responsible for cheating senior citizens!	211 is a hoax. 211 prohibits limits on lawyer fees and encourages frivolous lawsuits that clog courts, damage business and stall medical research. 211 could cost 159,000 jobs and $5.1 billion in higher taxes. 211 damages pensions, retirement and family savings. Seniors, Democrats, Republicans, families say *no* on 211.	Sean Crowley Citizens for Retirement Protection and Security (213) 617-7337	Taxpayers Against Frivolous Lawsuits 915 L Street, #C307 Sacramento, CA 95814 (916) 774-0637 1-800-966-1492 Fax: (916) 774-0429 Web Site: http://www.tafl.com
212 gets tough on special interests and self-interested politicians. 212 strictly limits out-of-district campaign contributions; bans corporate and union contributions; bans corporate tax deductions for lobbying; sets $100 contribution limits; and sets low, mandatory campaign spending limits. All at no cost to taxpayers. Vote Yes on 212.	*Warning: Prop. 212 is consumer fraud.* It wipes out anti-corruption laws, legalizing unlimited personal cash payments and gifts to elected officials! It allows special interests to give one hundred times what you and I can give! A hundredfold advantage! *Opposed* by League of Women Voters & AARP. *Vote no.*	Californians Against Political Corruption 11965 Venice Boulevard, Suite 408 Los Angeles, CA 90066 (310) 397-3404 http://www.best.com/~myk/fedup/	Californians for Political Reform, A Committee Sponsored by League of Women Voters of California, American Association of Retired Persons-California (AARP), Common Cause and United We Stand America 926 J Street, Suite 910 Sacramento, CA 95814 (916) 444-0834 www.vida.com/cfr
A *yes* vote on this measure means: A convicted felon would be prohibited from recovering monetary damages for an accidental injury sustained while fleeing from his or her crime. Drunk drivers and uninsured motorists involved in collisions could recover only medical and out-of-pocket expenses but would be prohibited from recovering "pain and suffering" awards from insured drivers.	No-Fault Auto Insurance has failed twice in California. Now, the Insurance Lobby's newest No-Fault scheme rewards reckless drivers who hit innocent poor people. Proposition 213 lets reckless drivers avoid responsibility. No-Fault for reckless drivers. The No-Faulters say we save millions. But nothing in Proposition 213 No-Fault lowers our insurance rates.	Rex Frazier 915 L Street, Suite 1050 Sacramento, CA 95814 (916) 449-2956 Fax: (916) 449-2959	Consumers Against No Fault for Reckless Drivers 2110 K Street, #19B Sacramento, CA 95816 (916) 444-0748

November 5, 1996, Ballot Measures—Continued

	SUMMARY	WHAT YOUR VOTE MEANS	
		YES	NO
214 **HEALTH CARE. CONSUMER PROTECTION.** Initiative Statute Put on the Ballot by Petition Signatures	Regulates health care businesses. Prohibits discouraging health care professionals from informing patients or advocating treatment. Requires health care businesses to establish criteria for payment and facility staffing. Fiscal Impact: Increased state and local government costs for existing health programs and benefits, probably in the tens to hundreds of millions of dollars annually.	A **YES** vote on this measure means: Physical examinations would be required before health plans or insurers could deny recommended care. State staffing standards would be expanded to more types of health facilities, taking the needs of individual patients into account. Health care businesses could not offer financial incentives to doctors and others to reduce care. Certain health care employees and contractors would have additional protections.	A **NO** vote on this measure means: There would be no requirements regarding physical examinations prior to denial of recommended care. There would not be any change to current state and federal laws regarding health facility staffing, health care employee and contractor protections, and restrictions on financial incentives to reduce care.
215 **MEDICAL USE OF MARIJUANA.** Initiative Statute Put on the Ballot by Petition Signatures	Exempts from criminal laws patients and defined caregivers who possess or cultivate marijuana for medical treatment recommended by a physician. Provides physicians who recommend use shall not be punished. Fiscal Impact: Probably no significant fiscal impact on state and local governments.	A **YES** vote on this measure means: Persons with certain illnesses (and their caregivers) could grow or possess marijuana for medical use when recommended by a physician. Laws prohibiting the nonmedical use of marijuana are not changed.	A **NO** vote on this measure means: Growing or possessing marijuana for any purpose (including medical purposes) would remain illegal.
216 **HEALTH CARE. CONSUMER PROTECTION. TAXES ON CORPORATE RESTRUCTURING.** Initiative Statute Put on the Ballot by Petition Signatures	Regulates health care businesses. Prohibits discouraging health care professionals from informing patients. Prohibits conditioning coverage on arbitration agreement. Establishes nonprofit consumer advocate. Imposes taxes on corporate restructuring. Fiscal Impact: New tax revenues, potentially hundreds of millions of dollars annually, to fund specified health care. Additional state and local government costs for existing health programs and benefits, probably tens to hundreds of millions of dollars annually.	A **YES** vote on this measure means: New taxes would be imposed on health care businesses to fund specified health care services. Physical examinations would be required before health plans or insurers could deny recommended care. State staffing standards would be set for all health facilities, taking the needs of individual patients into account. Health care businesses could not offer financial incentives to doctors and others to reduce care. Certain health care employees and contractors would have additional protections.	A **NO** vote on this measure means: New taxes would not be imposed on health care businesses to finance health care services. There would be no requirement regarding physical examinations prior to denial of recommended care. There would not be any change to current state and federal laws regarding health facility staffing, health care employee and contractor protections, and restrictions on financia incentives to reduce care.
217 **TOP INCOME TAX BRACKETS. REINSTATEMENT. REVENUES TO LOCAL AGENCIES.** Initiative Statute Put on the Ballot by Petition Signatures	Retroactively reinstates highest tax rates on taxpayers with taxable income over $115,000 and $230,000 (current estimates) and joint taxpayers with taxable incomes over $230,000 and $460,000 (current estimates). Allocates revenue from those rates to local agencies. Fiscal Impact: Annual increase in state personal income tax revenues of about $700 million, with about half the revenues allocated to schools and half to other local governments.	A **YES** vote on this measure means: Income taxes will be raised on the highest income taxpayers in the state, with the increased revenues going to schools and other local governments.	A **NO** vote on this measure means: Income taxes on the highest-income taxpayers in the state will not be raised.
218 **VOTER APPROVAL FOR LOCAL GOVERNMENT TAXES. LIMITATIONS ON FEES, ASSESSMENTS, AND CHARGES.** Initiative Constitutional Amendment Put on the Ballot by Petition Signatures	Requires a majority of voters to approve increases in general taxes. Requires property-related assessments, fees, charges be submitted to property owners for approval. Fiscal Impact: Short-term local government revenue losses of more than $100 million annually. Long-term local government revenue losses of potentially hundreds of millions of dollars annually. Comparable reductions in spending for local public services.	A **YES** vote on this measure means: Local governments' ability to charge assessments and certain property-related fees would be significantly restricted. Spending for local public services would be reduced accordingly. Many existing and future local government fees, assessments, and taxes would be subject to voter-approval.	A **NO** vote on this measure means: Local governments could continue to collect existing property-related fees, assessments, and taxes to pay for local public services. Local governments would have no new voter-approval requirements for revenue increases.

ARGUMENTS		WHOM TO CONTACT FOR MORE INFORMATION	
PRO	**CON**	**FOR**	**AGAINST**
Proposition 214 protects freedom of speech between patients and doctors, and patients' right to the care that their health insurance has already paid for. It prevents HMOs and insurers from using gag rules, intimidation, or financial incentives to discourage doctors from providing needed care. Please, vote yes on Proposition 214.	Proposition 214, like 216, is bogus health care reform. It increases health insurance by up to 15% (costing *billions*), costs taxpayers hundreds of millions, and helps trial lawyers file more frivolous lawsuits. 214 and 216 could cost 60,000 workers their jobs but don't provide health coverage to anyone. Vote *no*.	Californians for Patient Rights 560 Twentieth Street Oakland, CA 94612 (510) 433-9360 Internet Address: http://www.yes-prop214.org	Taxpayers Against Higher Health Costs Stop the Hidden Health Care Tax 915 L Street, Suite C240 Sacramento, CA 95814 (916) 552-7526 (800) 996-6287 Fax: (916) 552-7523 Web Site: http://www.noprop214.org
Marijuana can relieve pain and suffering in serious illnesses like cancer, glaucoma and AIDS. Proposition 215 permits patients to use marijuana, *but only if they have the approval of a licensed physician.* Tight controls limiting marijuana to patients only will remain in place. Cancer doctors and nurses groups support 215.	*Propositon 215 legalizes marijuana. Vote no.* It allows people to grow and smoke marijuana for stress or "any other illness." No written prescription or examination is required, even children can smoke pot legally. The American Cancer Society rejects smoking marijuana for medical purposes and no major doctor's organization supports 215.	Californians for Medical Rights 1250 Sixth Street, #202 Santa Monica, CA 90401 (310) 394-2952 Fax: (310) 451-7494 Internet home page: http://www.prop215.org	Citizens for a Drug-Free California Sheriff Brad Gates, Chairman 4901 Birch Street Newport Beach, CA 92660 (714) 476-3017
Protects consumers against unsafe care by insurance companies and HMOs. Outlaws bonuses to doctors for denying treatment. Restores control of patient care to doctors and nurses. Saves lives. Reduces costs to taxpayers, businesses. Bans unjustified premium increases. Creates independent watchdog. Backed by California Nurses Association, Harvey Rosenfield and Ralph Nader.	Propositions 216 and 214 are near twins—phony health care reform that costs taxpayers and consumers billions without providing coverage to the uninsured. 216 means: four new taxes; dramatically higher health insurance costs; more government bureaucrats; more frivolous lawsuits for trial lawyers; and up to 60,000 lost jobs. Vote *no*.	Harvey Rosenfield Consumers and Nurses for Patient Protection 1750 Ocean Park #200 Santa Monica, CA 90405 (310) 392-0522 E-Mail: network@primenet.com	Taxpayers Against Higher Health Costs Stop the Hidden Health Care Tax 915 L Street, Suite C240 Sacramento, CA 95814 (916) 552-7526 (800) 996-6287 Fax: (916) 552-7523 Web Site: http://www.noprop216.org
Proposition 217 restores a little fiscal sanity to California. It cancels a tax cut for the wealthiest 1.2%—a cut the rest of us won't get—to protect schools and restore local funding the state took away. Support your local schools, law enforcement, libraries, parks, and child protection. Vote *yes*.	*Taxes already are too high!* Retroactive tax increase effectively gives California highest personal income tax rate nationwide. Small businesses would be hurt. *Absolutely no guarantees or accountability how the new tax money would be spent.* Contains too many provisions with uncertain and even potentially dangerous economic consequences. *No* on 217!	Yes on Proposition 217 2500 Wilshire Blvd., Suite 508 Los Angeles, CA 90057 213-386-4036 Web site address: http://www.prop217.org	Californians for Jobs, Not More Taxes/No on 217 111 Anza Boulevard, Suite 406 Burlingame, CA 94010 (415) 340-0470
Proposition 218 simply gives taxpayers the right to vote on taxes. Proposition 218 provides only registered Californians vote on taxes. Nonresidents, foreigners, corporations get no new rights. Proposition 218 doesn't cut traditional "lifeline" services; allows taxes for police, fire, education. *Your right to vote on taxes: Yes on Proposition 218.*	Gives large landowners—including noncitizens—more voting power than average homeowners. Denies assessment voting rights for renters. Cuts *existing* funding for local police, fire, library services. Adds *new taxes* on public property like neighborhood schools, cutting funds available for teaching and classroom supplies and computers; increases *school crowding*.	The Howard Jarvis Taxpayers Association The Right to Vote on Taxes Act, Yes on Prop. 218 621 S. Westmoreland Avenue, Suite 202 Los Angeles, CA 90005 (213) 384-9656	Citizens for Voters' Rights 2646 Dupont Dr., Suite 20-412 Irvine, CA 92612 (714) 222-5438 http://www.prop218no.org

Safe, Clean, Reliable Water Supply Act.

Official Title and Summary Prepared by the Attorney General

SAFE, CLEAN, RELIABLE WATER SUPPLY ACT.

- This act provides for a bond issue of nine hundred ninety-five million dollars ($995,000,000) to provide funds to ensure safe drinking water, increase water supplies, clean up pollution in rivers, streams, lakes, bays, and coastal areas, protect life and property from flooding, and protect fish and wildlife and makes changes in the Water Conservation and Water Quality Bond Law of 1986 and the Clean Water and Water Reclamation Bond Law of 1988 to further these goals.
- Appropriates money from state General Fund to pay off bonds.

Summary of Legislative Analyst's Estimate of Net State and Local Government Fiscal Impact:

- General Fund cost of up to $1.8 billion to pay off both the principal ($995 million) and interest ($776 million).
- The average payment for principal and interest over 25 years would be up to $71 million per year.

Final Votes Cast by the Legislature on SB 900 (Proposition 204)

Assembly:	Ayes 74	Senate:	Ayes 33
	Noes 4		Noes 4

Analysis by the Legislative Analyst

BACKGROUND

Water Quality and Supply. In past years, the state has provided funds for projects that improve water quality and supply. For example, the state has provided loans and grants to local agencies for the construction and implementation of wastewater treatment, water supply, and water conservation projects and facilities. The state has sold general obligation bonds to raise the money for these purposes. As of June 1996, all but about $79 million of the $2 billion authorized by previous bond acts had been spent or committed to specific projects. Project applications have been received for most of the remaining uncommitted funds.

Bay-Delta. The state also has funded the restoration and improvement of fish and wildlife habitat in the San Francisco Bay/Sacramento-San Joaquin Delta Estuary (the Bay-Delta) and other areas, using various fund sources including general obligation bonds and the state General Fund. The Bay-Delta supplies a substantial portion of the water used in the state for domestic, industrial, agricultural, and environmental purposes. For example, water flowing through the Bay-Delta provides drinking water for about 22 million people in California and irrigates 45 percent of the fruits and vegetables produced in the United States. In addition to supplying water, the Bay-Delta provides habitat for fish and wildlife, including several endangered species, and an estimated 80 percent of the state's commercial fishery species live in or migrate through the Bay-Delta. Increased demand for water from the Bay-Delta, combined with other factors such as pollution, degradation of fish and wildlife habitat, and deterioration of delta levees and flood control facilities, has reduced the Bay-Delta's capacity to provide reliable supplies of water and sustain fish and wildlife species.

The CALFED Bay-Delta Program is a joint state and federal effort to develop a long-term approach to restoring ecological health and improving water management in the Bay-Delta. Total capital costs for the various alternatives under consideration range from $4 billion to $8 billion over the next 20 to 40 years. It is anticipated that funding would come from a variety of federal, state, local, and private sources.

Flood Control. The state also provides funds to local agencies for flood control projects. The state has not previously sold general obligation bonds to fund the construction of local flood control projects or facilities. Rather, these projects have primarily been funded from the state General Fund. However, due to the state's fiscal condition in recent years, the state has been unable to pay its share of the costs of these projects. As of June 1996, the unpaid amount of the state's share of costs for local flood control was about $158 million.

PROPOSAL

This measure authorizes the state to sell $995 million of general obligation bonds for the purposes of restoration and improvement of the Bay-Delta;

wastewater treatment and water supply and conservation; and local flood control and prevention. General obligation bonds are backed by the state, meaning that the state is required to pay the principal and interest costs on these bonds. General Fund revenues would be used to pay these costs. General Fund revenues come primarily from the state personal and corporate income taxes and sales tax.

Figure 1 lists the purposes for which the bond money would be used. The bond money will be available for expenditure by various state agencies and for loans and grants to local agencies. The measure specifies the conditions under which the funds are available for loans, including the terms for interest and repayment of the loans.

In some instances, the measure makes the expenditure of bond funds contingent on actions by the state or federal government. For example, under the measure, funds for projects to restore the Bay-Delta ecosystem may not be spent until the state and federal governments have completed their environmental review of the projects and have entered into a cost-sharing agreement for funding those projects.

In addition to authorizing the sale of bonds, the measure requires that the repayment of loans funded under the 1988 Clean Water and Water Reclamation Bond (Proposition 83) be used to provide additional loans and grants for local water recycling projects.

FISCAL EFFECT

Costs of Paying Off the Bonds. For these types of bonds, the state typically makes principal and interest payments from the state's General Fund over a period of about 25 years. If all of the bonds authorized by this measure are sold at an interest rate of 6 percent, the cost would be about $1.8 billion to pay off both the principal ($995 million) and interest ($776 million). The average payment for the principal and interest would be about $71 million per year.

However, total debt repayment costs to the state will be somewhat less than the $1.8 billion. First, bonds used to fund revolving loan programs ($175 million) may have to be financed over a shorter period than is typically used for most state bonds in order to comply with federal law. Consequently, total interest costs on these bonds would be less than if the payments were made over 25 years. Second, the measure requires that loans made for construction of drainage water management and local water projects be repaid to the state General Fund. The repayments of these loans could reduce the state General Fund cost by about $70 million over the life of the bonds.

Use of Repayments of Past Loans. The 1988 Clean Water and Water Reclamation Bond (Proposition 83) authorized up to $40 million in loans to local agencies. Currently, repayments of these loans are used to pay off the bonds. This measure requires, instead, that the repayments be used to provide additional loans and grants for local water recycling projects. As a result, this will result in a General Fund cost of at least $60 million to pay off the principal and interest of these bonds.

Figure 1

Proposition 204
Safe, Clean, Reliable Water Supply Act
Uses of Bond Funds

(In Millions)	Amount
Bay-Delta Improvement	**$193**
• Central Valley Project Improvement—fish and wildlife restoration	93
• Bay-Delta non-flow-related projects	60
• Delta levee rehabilitation and maintenance and flood protection	25
• South Delta environmental enhancement and mitigation	10
• CALFED state's share of administration	3
• Delta recreation	2
CALFED Bay-Delta Ecosystem Restoration	**$390**
• Existing habitat protection and enhancement	—[a]
• Tidal, riparian, wetlands, and other habitat restoration	—[a]
• Instream flow improvements	—[a]
• Fish protection and management	—[a]
Clean Water and Water Recycling	**$235**
• Wastewater treatment	110
• Water recycling and reclamation	60
• Treatment and management of agricultural drainage water	30
• Delta tributary watershed rehabilitation	15
• Seawater intrusion control	10
• Lake Tahoe water quality	10
Water Supply Reliability	**$117**
• Water conservation and groundwater recharge	30
• River parkway acquisition and riparian habitat restoration	27
• Local water supply development and environmental mitigation	25
• Sacramento Valley water management and habitat protection	25
• Feasibility investigations for off-stream storage, water recycling, water transfer facilities, and desalination	10
Local Flood Control and Prevention	**$ 60**
• Claims submitted by 6/30/96 for projects in specified counties	60
Total	**$995**

[a] Amounts not specified.

For text of Proposition 204 see page 79

204 Safe, Clean, Reliable Water Supply Act.

Argument in Favor of Proposition 204

Safe drinking water is something most of us take for granted. But the truth is, unless we act now, California's residents, businesses and farms face a future of chronic water shortages and potentially unsafe supplies. According to the California Department of Water Resources, our water problems will only get worse, due to increasing population and a water supply system that has not kept up with our needs.

Proposition 204, the SAFE, CLEAN, RELIABLE WATER SUPPLY ACT, provides the foundation for a comprehensive and lasting solution to the state's water supply needs. Proposition 204 is a truly BALANCED WATER SOLUTION THAT IS GOOD FOR OUR ECONOMY AND JOBS, GOOD FOR OUR ENVIRONMENT AND GOOD FOR ALL CALIFORNIANS.

PROPOSITION 204 WILL BENEFIT ALL CALIFORNIANS BY:

ENSURING SAFE DRINKING WATER. Proposition 204 helps meet safe drinking water standards to protect public health.

INCREASING WATER SUPPLIES. Proposition 204 makes more water available to meet the state's growing needs through conservation, recycling and potential off-stream reservoirs and delivery systems to capture water in wet years for use during droughts.

PREVENTING WATER POLLUTION. Our streams, rivers, lakes, bays and coastal waters are threatened by pollution. Proposition 204 provides for cleanup of our precious waterways.

PROTECTING AGAINST FLOODS. Flooding threatens lives and has caused billions of dollars in property damage. Proposition 204 allows long-overdue flood protection projects to be completed.

HELPING OUR ECONOMY AND JOBS. Water is the lifeblood of California's economy. Reliable water supplies will protect existing jobs, encourage new businesses and create new jobs.

ENCOURAGING WATER CONSERVATION AND RECYCLING. Proposition 204 ensures we get the most out of our existing water supplies by encouraging conservation and recycling.

PROTECTING FISH AND WILDLIFE. Proposition 204 helps protect critical fisheries, wildlife, wetlands and other natural habitats, including the San Francisco Bay/Sacramento-San Joaquin Delta. The Bay-Delta is one of the state's most important environmental resources and the source of drinking water for over 22 million Californians.

PROTECTING AGAINST EARTHQUAKE DAMAGE. Seismic experts believe our water delivery system is in danger from major earthquakes, which could leave residents, businesses and farms without water. Proposition 204 provides necessary repairs and improvements to the delivery system to help prevent catastrophic failures.

WE CANNOT AFFORD TO WAIT. We must invest in our water supply system to ensure safe drinking water and avoid chronic water shortages. If we do not act NOW, the cost will be far higher in the future. The last major investment in our water supply system occurred 36 years ago, in 1960.

Join a diverse group of Californians in support of Proposition 204, including:

ASSOCIATION OF CALIFORNIA WATER AGENCIES
CALIFORNIA CHAMBER OF COMMERCE
ENVIRONMENTAL DEFENSE FUND
CALIFORNIA FARM BUREAU FEDERATION
STATE BUILDING & CONSTRUCTION TRADES COUNCIL AFL-CIO
BAY AREA ECONOMIC FORUM
SOUTHERN CALIFORNIA WATER COMMITTEE
NORTHERN CALIFORNIA WATER ASSOCIATION
CALIFORNIA BUSINESS ROUNDTABLE
COUNCIL FOR A GREEN ENVIRONMENT
PACIFIC WATER QUALITY ASSOCIATION
DELTA RESTORATION COALITION

VOTE YES FOR SAFE DRINKING WATER, YES FOR RELIABLE WATER SUPPLIES, YES FOR JOBS, YES FOR THE ENVIRONMENT AND YES FOR CALIFORNIA'S FUTURE.

YES ON PROPOSITION 204!

JIM COSTA
Chairman, Senate Agriculture and Water Resources Committee

STEPHEN HALL
Executive Director, Association of California Water Agencies

GERALD H. MERAL, Ph.D.
Scientist, Planning and Conservation League

Rebuttal to Argument in Favor of Proposition 204

We weren't aware of any water crisis until we read the proponents' argument. We suspect that these scare tactics are meant to convince you to support yet another big government public works boondoggle. Remember, using bond financing almost doubles the cost of any government project. Taxpayers can't afford Proposition 204. Let's look at the issues:

INCREASE WATER SUPPLIES—Residential customers use only 15% of California's water, but have to subsidize the agricultural and commercial customers who use 85%. If big water users had to pay the real cost of their water, prices would fluctuate according to supply and lead to conservation, as cost-effectiveness would become a major concern.

PREVENTING WATER POLLUTION—Those who pollute our rivers and lakes should be held fully responsible for the damage they do. Taxpayers should not be put on the hook for damages caused by private businesses and individuals. In cases where government officials are responsible for the pollution, we don't need to give them a blank check to clean it up.

HELPING OUR ECONOMY AND JOBS—Reliable water supplies alone won't create jobs. We need to cut the size and scope of government, slash taxes and repeal regulations so that businesses can create new jobs.

Many of Proposition 204's provisions could cause serious damage to private property rights. Armies of bureaucrats will march through the Sacramento Delta to impose rules and regulations. Then taxpayers will have to pay $1.7 BILLION in principal and interest over 25 years. Please vote NO.

JON PETERSEN
Treasurer, Libertarian Party of California

DENNIS SCHLUMPF
Director, Tahoe City Public Utility District

TED BROWN
Insurance Adjuster/Investigator, Pasadena

 Arguments printed on this page are the opinions of the authors and have not been checked for accuracy by any official agency.

Argument Against Proposition 204

California's bond debt now approaches $25 BILLION. Taxpayers must pay $3 billion EVERY YEAR. Now Sacramento politicians want to add another billion. Proposition 204 is too expensive! $995 million in bonds means a total of $1.7 BILLION in principal and interest over 25 years. As usual, taxpayers have to pay . . . and pay . . . with no end in sight.

And just what are we paying for? Proponents claim this measure will "ensure safe drinking water . . . clean up pollution in rivers . . . protect fish and wildlife," etc. When has the government ever succeeded in doing any of these things? You are more likely to hear about government policies CAUSING unsafe water, CAUSING pollution and INJURING fish and wildlife.

When the government diverted water from Northern to Southern California, it created problems with saltwater intrusion into freshwaters. As a result, the Sacramento Delta became degraded. This new measure seeks to "protect" the very same delta. As usual, the remedy for government mistakes is to spend more of our money to correct them. These flawed government water development policies caused the selenium intrusions into the Kesterson Wildlife Refuge and Reservoir near Merced and the resulting environmental nightmare.

Proposition 204 contains a laundry list of water projects, mostly in the Sacramento Delta area. How do we know if any of these projects are worthwhile, or if they are "make-work" rojects to fill the wallets of politicians and their big-money ontributors? These projects should be voted on and funded at the LOCAL level, where voters have first-hand knowledge about their necessity. The rest of us lack enough information to decide intelligently.

There's also the issue of whether taxpayers all over California should have to pay for projects in one small area. Proponents claim there is a "water crisis" and that this measure has state and national importance. They sure haven't demonstrated why. It smells like a big boondoggle to us.

The most curious part of Proposition 204 is $390 million designated for a "Calfed Bay-Delta Ecosystem Restoration Program." A consortium of five state agencies and five federal agencies wants to create habitats, protect wetlands, introduce species management, and protect fish. We are suspicious of this program, as we are of any program that would bring together armies of bureaucrats from ten different agencies. By its very nature, the program would likely violate private property rights. Why impose strict, mostly unnecessary environmental regulations on private citizens? "Wetlands" can mean anything that bureaucrats decide it means. Homeowners have run afoul of such regulations for minor acts like filling in puddles in their backyards. Some have even gone to jail. Proposition 204's loosely defined provisions are steps toward even more bureaucratic tyranny.

We favor protecting the environment—that's why we want government bureaucrats far away from our rivers, streams and wildlife. Look at the fine print. Proposition 204 means more bureaucracy, less protection of our natural environment, and $1.7 BILLION of our hard-earned dollars for 25 years. Please vote NO.

GAIL LIGHTFOOT
Chair, Libertarian Party of California

DENNIS SCHLUMPF
Director, Tahoe City Public Utility District

TED BROWN
Insurance Adjuster/Investigator, Pasadena

Rebuttal to Argument Against Proposition 204

Our economy, jobs and quality of life are dependent upon a safe, reliable and sufficient water supply. Proposition 204 balances the needs of the state's economy and environment to provide the foundation for a comprehensive solution to our state's water problems.

SOUND INVESTMENT. According to California State Treasurer Matt Fong, "Proposition 204's $995 million investment in the state's water supply and delivery system is a very prudent investment to sustain and expand California's $750 BILLION economy. This is a vital investment in our state's future."

NO TAX INCREASE. Proposition 204 does not increase taxes, it simply uses existing revenues to improve our water supply system.

STATEWIDE PROBLEM, STATEWIDE SOLUTION, STATEWIDE BENEFITS. California's water problems affect the entire state. Proposition 204 focuses on resolving critical water quality and environmental problems that impact our ability to provide safe drinking water for all Californians.

BROAD AND DIVERSE SUPPORT. Contrary to what some would have you believe, Proposition 204 is not about more government intervention. Proposition 204 was developed by a broad and diverse coalition of businesses, farmers, environmentalists and local water officials from all regions of the state concerned about SOLVING problems, not creating them.

COST EFFECTIVE. Proposition 204 is also cost effective because it generates federal matching dollars to help solve high-priority state and local water problems.

An investment in a SAFE WATER SUPPLY is an investment in our FUTURE.

VOTE YES ON PROPOSITION 204!

THOMAS S. MADDOCK
Chairman, California Chamber of Commerce Water Committee

DAVID N. KENNEDY
Director, California Department of Water Resources

SUNNE WRIGHT McPEAK
President, Bay Area Economic Forum

Youthful and Adult Offender Local Facilities Bond Act of 1996.

Official Title and Summary Prepared by the Attorney General

YOUTHFUL AND ADULT OFFENDER LOCAL FACILITIES BOND ACT OF 1996.

- This act provides for a bond issue of seven hundred million dollars ($700,000,000) to provide funds for construction, renovation, remodeling, and replacement of local juvenile and adult correctional facilities.
- Appropriates money from state General Fund to pay off bonds.

Summary of Legislative Analyst's Estimate of Net State and Local Government Fiscal Impact:

- General Fund costs of about $1.25 billion to pay off both the principal ($700 million) and interest ($550 million) on the bonds.
- The average payment for principal and interest would be about $50 million per year.
- Counties would incur unknown increased costs, potentially millions of dollars annually, to operate additional facilities constructed with these bond funds.

Final Votes Cast by the Legislature on AB 3116 (Proposition 205)

Assembly:	Ayes 61	Senate:	Ayes 27
	Noes 0		Noes 6

Analysis by the Legislative Analyst

BACKGROUND

California's 58 counties house juveniles and adults, who have been arrested for a crime, are awaiting trial, or are serving time for committing a crime. Juveniles are housed in juvenile halls or other county detention facilities, such as ranches and camps. Adult offenders are housed in county jails.

Juvenile Facilities. Generally, counties supervise juvenile offenders either at home or in juvenile halls, ranches, or camps. Statewide, there are more than 50,000 juvenile offenders under the supervision of county probation departments. This includes 6,000 juveniles who are detained in juvenile halls operated by 43 counties, and about 4,000 juvenile offenders who are housed in ranches and camps operated by 23 counties. Almost all of the juvenile halls report overcrowding.

Since 1988, the voters have approved $100 million in general obligation bonds for renovating, constructing, and acquiring new juvenile facilities. The funds from these bonds have been fully committed for various projects. A March 1995 assessment of California's juvenile halls, ranches, and camps conducted for the California Department of the Youth Authority, identified the need for more than $350 million to upgrade and develop new juvenile facilities.

Adult Facilities. In 1995, more than 1.1 million adults were booked into California jails. California's jails house on an average day more than 70,000 adults either awaiting trial or serving a sentence. Almost all of the jails in the state have reported overcrowding. In 27 counties with overcrowded jail conditions, courts have imposed limits on the number of people that can be held at any one time. As a result, some people must be released in the event that the jail population on a given day would exceed the specified limit. Jails in these counties account for more than 70 percent of the state's total jail beds.

New criminal laws have resulted in larger numbers of persons awaiting trial and, as a consequence, there has been less available space to house persons who have been sentenced. As a result, many inmates in jail serve only a fraction of their sentence. In 1995, more than 21,000 persons per month were released from jails, who otherwise would have been incarcerated, because of a lack of space. The Board of Corrections reports that the need for jail space will continue to increase, and that by the year 2000, there will be a need for an additional 30,000 beds.

Since 1981, the voters have authorized the state to sell about $1.6 billion in general obligation bonds to raise money to expand and improve county jail facilities. All of this money is fully committed for various projects.

PROPOSAL

This measure authorizes the state to sell $700 million in general obligation bonds for county juvenile and adult detention facilities. The money raised from the bond sales would be used for the construction, renovation, remodeling, and replacement of local facilities that are used to treat, rehabilitate, and punish juvenile offenders ($350 million) and adult offenders ($350 million).

General obligation bonds are backed by the state, meaning that the state is obligated to pay the principal and interest costs on these bonds. General Fund revenues would be used to pay these costs. These revenues come primarily from the state personal and corporate income taxes and sales tax.

The amount of money a county would be eligible to receive would be determined by the Legislature and the Governor. However, the measure provides that in order for a county to receive bond monies for either juvenile or adult facilities, it would be required to provide matching funds equal to 25 percent of the project's costs (this provision could be modified or waived by the Legislature). In addition, a county would have to identify the county's (or group of counties acting together) plan for providing services for juvenile and adult offenders ranging from prevention through detention. The plan must also show that the county has used, to the greatest practical extent, alternatives to detention. In addition, the plan must identify how the county will maximize all funding sources—local, state, and federal—for providing services to offenders.

FISCAL EFFECT

Costs of Paying Off the Bonds. For these types of bonds, the state makes principal and interest payments from the state's General Fund, typically over a period of about 25 years. If the $700 million in bonds were sold at an interest rate of 6 percent, the cost would be about $1.25 billion to pay off both the principal ($700 million) and the interest ($550 million). The average payment for principal and interest would be about $50 million per year.

Cost to Operate the Local Facilities. Counties will incur increased costs to operate additional facilities constructed with these bond funds. The additional operating costs are unknown, but could be millions of dollars annually.

For text of Proposition 205 see page 86

205 Youthful and Adult Offender Local Facilities Bond Act of 1996.

Argument in Favor of Proposition 205

Proposition 205 is supported by the California State Sheriffs' Association, California Police Chiefs Association, California District Attorneys Association, Crime Victims United and other leading crime victims groups throughout the state.

HERE'S WHY—

Proposition 205 is urgently needed to keep violent criminals out of our schools and neighborhoods and keep them behind bars—where they belong.

Proposition 205 provides the critical funding to build new or upgrade existing county jails. Without it, thousands of convicted criminals will be released early.

26 California counties are under federal court orders to release criminals because of *massive* jail overcrowding. Criminals laugh at a system that does little to hold them accountable for their actions while the public fears for its safety.

Because of these federal court orders, many counties routinely release criminals after they have served only a fraction of their sentences.

In one large California county, the average jail term for a one year sentence is *only 51 days!* This is outrageous!

California spends billions each year on police and prosecutors to put criminals behind bars. When their hard work results in a jail sentence, we do not want these criminals released because of a lack of jail space.

California's tough new "Three Strikes" law is working to remove violent criminals from our streets. Since its passage, California has had three years of declining crime rates. But without adequate county jail space, criminals who have already received their first and second strikes could be released early. The same California citizens who led the nation by passing "Three Strikes and You're Out" should support Proposition 205. "Three Strikes and You're Out" puts violent career criminals in prison and jail for longer sentences, Proposition 205 will ensure that unelected federal judges don't order the early release of those criminals due to a lack of facilities.

VOTE YES ON PROPOSITION 205.

JIM BRULTE
Assemblyman, Rancho Cucamonga
HARRIET C. SALARNO
Founder, Justice for Murder Victims
BRAD GATES
Sheriff, Orange County

Rebuttal to Argument in Favor of Proposition 205

Don't be deceived by the proponents' hysterical rhetoric. Of course we all want to keep criminals off the street. Proposition 205 won't do it.

"Three strikes" is designed to lock up career criminals. Only convicted felons qualify. Felons are housed in state prisons, not in county jails. They are only in county jail if they can't make bail while awaiting trial.

Who serves time in county jails? Petty thieves and muggers, drunk drivers, deadbeat dads, small-time drug dealers, prostitutes, barroom brawlers, people whose traffic tickets go to warrant, etc. Some are dangerous, some aren't. In fact, 50% of all crime is related to drug use, including simple possession of controlled substances.

We believe that only criminals who are violent and dangerous to others should be locked up. To save taxpayers money, nonviolent convicts should be placed under house arrest and monitored electronically. Those guilty of violating peoples' rights should have to pay those they have wronged (restitution). Paying restitution is far more important than jailing a criminal, because a debt is owed first to the victim, then to "society."

If there was no victim (such as in drug possession), then no crime was committed, and the person should be released. Law enforcement should concentrate on arresting truly dangerous thugs, like murderers, rapists and armed robbers. If only these types of criminals were locked up, we wouldn't need more jail cells.

Proposition 205 doesn't do much for public safety. It means more bond debt that taxpayers can't afford. Please vote NO.

JON PETERSEN
Treasurer, Libertarian Party of California
RONALD PAYNE
National Guard Military Policeman, Madera
TED BROWN
Insurance Adjuster/Investigator, Pasadena

Argument Against Proposition 205

California's bond debt now approaches $25 BILLION. Taxpayers must pay $3 billion EVERY YEAR. Now Sacramento politicians want to add more. Proposition 205 is too expensive! $700 million in bonds means a total of $1.2 BILLION in principal and interest over 25 years. As usual, taxpayers have to pay . . . and pay . . . and pay some more!

Of course we all want to be safe, but Proposition 205 will not make us safer. It just throws money at the crime problem without addressing why the crime rate has gone up.

Crime is rampant due in part to government's "war on drugs." It's similar to the Prohibition era of the 1920's. Alcohol prohibition didn't work then; it just created gangsters and shootouts in the streets. And drug prohibition doesn't work today.

Drug laws are the problem, not the solution. If drugs were legal, the price would drop and most addicts would no longer have to steal to support their habits. Without the high profit margin, drug dealers would go out of business and no longer be on the streets trying to hook kids on these substances. Finally, the violence caused by dealers fighting over territory would be eliminated.

Law enforcement authorities generally agree that over 0% of prisoners are in jail due to drug-related crimes. Get rid of the drug laws and there would be no need for any new jails. Indeed, real criminals (like burglars and rapists) could serve their full sentences, instead of being released after a few days due to overcrowding. There should also be more use of house arrest and electronic monitoring of non-violent convicts.

Proponents mention the "three strikes and you're out" law for causing more jail overcrowding. But those convicted under "3 strikes" serve time in state prisons, not county jails. "Three strikes" has been striking some of the wrong people. Californians want violent felons to be locked up for life. Instead, the third strike can be any felony—and just about anything can be called a felony, even possession of a marijuana joint. This kind of legal misapplication is helping to clog our jails. Building more cells will just oil the system.

Juvenile halls don't need expanding, as many kids who are there don't need to be. Ending the drug war would go a long way to opening up space. Some youths are jailed for status offenses such as being a runaway or out after curfew. These offenses shouldn't even be illegal. These kids should be released to their parents, not locked up. All they learn in juvenile hall is how to commit violent crimes. Violent juvenile criminals should be treated the same as adults—and be allowed due process like trial by jury. They can start serving their sentences with other juveniles but at 18 they should be transferred to state prison.

We need alternatives to the present failed system. Throwing another $1.2 BILLION at it won't make our streets safer. Vote NO on Proposition 205.

GAIL LIGHTFOOT
Chair, Libertarian Party of California
DOUGLAS F. WEBB
Criminal Defense Attorney, Del Mar
TED BROWN
Insurance Adjuster/Investigator, Pasadena

Rebuttal to Argument Against Proposition 205

It is unbelievable the opponents of Proposition 205 argue the solution to California's crime problem is to legalize drugs so we won't need jails.

The opponents of Proposition 205 think the best way to win the war on crime is to stop fighting it. Sensible people realize we need to build jails to keep criminals off our streets. We also need to prevent federal courts from ordering the release of criminals into our communities. Proposition 205 will do this by providing badly needed money for local jails and juvenile halls.

California has seen dramatic and frightening increases in juvenile crime in recent years. In the past, most juvenile crime consisted of petty theft and truancy. But today, we are dealing with large numbers of serious and violent juvenile offenders. Between 1985 and 1994 juvenile arrests for violent crime rose 82 percent!

Half of Proposition 205's funds will be devoted to construction and expansion of juvenile halls.

We need to protect our citizens and children by keeping criminals off the streets. We need enough jail space in our local communities to do that.

If you want safe streets, parks and schools, vote for Proposition 205.

BILL LOCKYER
Senator, Hayward
PAULA BOLAND
Assemblymember, Granada Hills

Veterans' Bond Act of 1996.

Official Title and Summary Prepared by the Attorney General

VETERANS' BOND ACT OF 1996.

- This act provides for a bond issue of four hundred million dollars ($400,000,000) to provide farm and home aid for California veterans.
- Costs offset by payments from participating veterans.

Summary of Legislative Analyst's Estimate of Net State and Local Government Fiscal Impact:

- General Fund costs of about $700 million to pay off both the principal ($400 million) and interest (about $300 million) on the bonds; costs offset by payments from participating veterans.
- Average payment for principal and interest of about $28 million per year for 25 years.

Final Votes Cast by the Legislature on SB 852 (Proposition 206)

Assembly:	Ayes 74	Senate:	Ayes 29
	Noes 0		Noes 0

Analysis by the Legislative Analyst

BACKGROUND

Since 1921, the voters have approved a total of about 7.5 billion of general obligation bond sales to finance the veterans' farm and home purchase (Cal-Vet) program. As of July 1996, there was about $250 million remaining from these funds. General obligation bonds are backed by the state, meaning that the state is obligated to pay the principal and interest costs on these bonds.

The money from these bond sales is used by the Department of Veterans Affairs to purchase farms, homes, and mobilehomes which are then resold to California veterans. Each participating veteran makes monthly payments to the department. These payments are in an amount sufficient to (1) reimburse the department for its costs in purchasing the farm, home, or mobilehome, (2) cover all costs resulting from the sale of the bonds, including interest on the bonds, and (3) cover the costs of operating the program.

PROPOSAL

This measure authorizes the state to sell $400 million in general obligation bonds for the Cal-Vet program. The Department of Veterans Affairs advises that these bonds would provide sufficient funds to enable at least 2,000 additional veterans to receive loans.

FISCAL EFFECT

The bonds authorized by this measure would be paid off over a period of about 25 years. If the $400 million in bonds were sold at an interest rate of 6 percent, the cost would be about $700 million to pay off both the principal ($400 million) and interest ($300 million). The average payment for principal and interest would be about $28 million per year.

Throughout its history, the Cal-Vet program has been totally supported by the participating veterans, at no direct cost to the taxpayer. However, if the payments made by those veterans participating in the program do not fully cover the principal and interest payments on the bonds, the state's taxpayers would pay the difference.

For text of Proposition 206 see page 87

206 Veterans' Bond Act of 1996.

Argument in Favor of Proposition 206

Since 1921 grateful voters of California have consistently supported the Cal-Vet farm and home loan program. It is entirely self-supporting, and it is a financially sound way to assist wartime veteran men and women when they return to civilian life.

Voter-approved general obligation bonds finance the program and are repaid, along with *all* related administrative costs, by the veteran loan holders. The Cal-Vet program does not cost the general taxpayer one thin dime.

In its 75 years of operation more than 405,000 California wartime veterans have financed farms and homes. The Cal-Vet program is an appropriate expression of our appreciation and thanks for the sacrifices of United States veteran men and women who have served this Nation during wartime. In addition to helping veterans, Cal-Vet farm and home loans generate thousands of jobs and millions of dollars in annual payrolls.

The last Cal-Vet bond measure appeared on the 1990 ballot and received strong voter support. Proposition 206 is needed now to ensure that the highly successful Cal-Vet program will be able to meet the future needs of wartime veterans. The act was placed on the ballot with no negative votes—passing the Senate 37-0 and 72-0 in the Assembly.

We ask you to vote *FOR* Proposition 206, the Veterans' Bond Act of 1996. Your approval will enable California wartime veterans to purchase homes and farms here with low interest rates and at no cost to you. We should do no less for our more than 3 million veteran men and women.

DON ROGERS
State Senator, 17th District
JIM MORRISSEY
Assemblyman, 69th District
GRAY DAVIS
Lieutenant Governor, State of California

Rebuttal to Argument in Favor of Proposition 206

We agree that the Cal-Vet program has been financially self-supporting—so far. But California's real estate market isn't what it used to be. Foreclosures are at an all time high. If participating veterans default on their loans, taxpayers have to pay.

Proponents argue that Cal-Vet loans generate thousands of jobs and millions of dollars in annual payrolls. Where? Maybe in the government department that administers the program! If so, let's eliminate these jobs and payrolls, and save the taxpayers even more. If the proponents are talking about jobs and payroll in the housing industry, they'll have to prove it. A booming housing market may have been the norm after World War II, but now there are more houses for sale than people are willing or able to buy.

California's economy can be revived by cutting back government, reducing taxes, and eliminating agencies and regulations that put burdens on businesses. People would have more money in their pockets if taxes were lower and government were smaller. Then they coul qualify for a home loan without the aid of government programs. Proposition 206 won't do any of this. Since it duplicates the federal VA home loan program, Cal-Vet is merely another unnecessary government program.

We appreciate the sacrifices made by our veterans, but it's obvious they are recognized with benefits from the federal government. When a state decides it must also provide veterans' benefits, it's clear the program is designed to gain votes for pork-barrel politicians. Please vote NO.

JON PETERSEN
Treasurer, Libertarian Party of California
JOSEPH B. MILLER
Retired Air Force Officer, Sacramento
TED BROWN
Insurance Adjuster/Investigator, Pasadena

Argument Against Proposition 206

California's government has far too many special-interest programs. The Cal-Vet program was established after World War I to help veterans buy homes. Since a large number of Californians stood to benefit from that program, politicians were only too happy to adopt it.

The Legislative Analyst tells us that the Cal-Vet program costs taxpayers nothing. However, if the payments made by participating veterans do not fully cover the principal and interest payments on the bonds, the taxpayers would have to pay the difference.

Unfortunately, California's real estate boom ended a few years ago. Back in the 1980s people could turn big profits on their homes. Not anymore. The economy has grown worse, allowing fewer Californians to buy homes. In both Los Angeles and Orange Counties, only 15 percent of residents can afford the median priced home. Bank foreclosures on properties are at an all-time high. Proposition 206 will tell wannabe homeowners that their taxes will subsidize Cal-Vet loans.

Veterans, especially those who served in combat situations, deserve our appreciation. In fact, the federal government provides extensive veterans' benefits. The Department of Veterans Affairs is a Cabinet department the same as the Treasury and Justice Departments. One veterans' benefit is the VA home-loan program. We don't need an expensive duplicate program at the state level.

Proposition 206 seems unnecessary as well. Currently many lenders are offering home loans with as little as 3% or 5% down for buyers with good credit. Veterans, along with everyone else, can apply. If a veteran's credit isn't good enough to qualify with a regular lender, then maybe he or she is too great a risk for the taxpayers. Prop. 206 makes every one of us a co-signer to veterans' housing loans. With any home loan, if the homeowner can't pay, the lender is left holding the bag.

It's a matter of fairness. The government should not play favorites and give special privileges to veterans. The current poor state of California's real estate market suggests that many veterans will default on these loans. Then we all have to pay.

Vote NO on Proposition 206.

JOSEPH B. MILLER
Retired Air Force Officer, Sacramento

WILLARD MICHLIN
Real Estate Broker, Glendale

TED BROWN
Member, State Executive Committee, Libertarian Party of California

Rebuttal to Argument Against Proposition 206

Please don't be misled by the erroneous statements made by the opponents to the Veterans Bond measure.

This highly successful program to assist California's wartime veterans to purchase farms and homes has never cost California taxpayers *one cent* since it began in the early 1920s.

The Cal-Vet program is the only bond act on the ballot that is self-supporting! All costs, including administrative costs, are paid by the veteran borrower. The Cal-Vet program has never been "subsidized" by California taxpayers. Those veterans eligible for loans are screened for ability to pay and must qualify for a loan just like any home buyer.

Please put aside the smokescreen of "gloom and doom" and vote *FOR* Proposition 206. By doing so you show that you are standing firm for our wartime veterans when they stood firm for us.

DON ROGERS
State Senator, 17th District

JIM MORRISSEY
Assemblyman, 69th District

GRAY DAVIS
Lieutenant Governor, State of California

Attorneys. Fees. Right to Negotiate. Frivolous Lawsuits. Initiative Statute.

Official Title and Summary Prepared by the Attorney General

ATTORNEYS. FEES. RIGHT TO NEGOTIATE. FRIVOLOUS LAWSUITS. INITIATIVE STATUTE.

- Except as allowed by laws in effect on January 1, 1995, prohibits restrictions on the right to negotiate amount of attorneys' fees, whether fixed, hourly or contingent.
- Prohibits attorney from charging or collecting excessive or unconscionable fees.
- Authorizes court to impose sanctions upon attorney who files a lawsuit or pleading which is totally and completely without merit or filed solely to harass opposing party. Prohibits sanctioned attorney from collecting fees for case.
- Requires State Bar to recommend appropriate discipline for attorneys with repeated sanctions.

Summary of Legislative Analyst's Estimate of Net State and Local Government Fiscal Impact:

- Adoption of this measure would have an unknown, but probably not significant, net fiscal impact on state and local governments.

Analysis by the Legislative Analyst

BACKGROUND

Attorneys' Fees. In general, existing law requires that attorneys enter into written fee agreements with their clients. These agreements must specify, among other things, the fee to be paid to the attorney and the manner in which the fee will be determined.

In general, attorney fees are billed to clients on either an hourly basis or a "contingent fee" basis. In contingent fee agreements, the attorney is paid a percentage of the settlement or judgment only if the case is won or settled in favor of the attorney's client. Generally, these hourly and contingent fees are negotiated between the client and the attorney. Current law limits contingent fee rates in certain cases, such as medical malpractice cases.

"Excessive" Attorney Fees. The State Bar regulates attorneys in California, including developing and enforcing rules of professional conduct. The State Bar and the California Supreme Court have the power to discipline attorneys, including suspending an attorney from practice for a violation of the rules of professional conduct. One of these rules prohibits attorneys from collecting "excessive" fees, as defined in State Bar rules.

"Frivolous" Legal Actions. Existing law allows courts to determine whether an attorney has filed a lawsuit or legal action that is "frivolous." Frivolous actions are defined as either (1) totally and completely without merit or (2) filed for the sole purpose of harassing an opposing party. If the court determines that an action is frivolous, it may impose sanctions upon the attorney, including monetary penalties. If a court imposes a penalty of $1,000 or more, it must notify the State Bar. A court is not required to notify the State Bar if the sanction is less than $1,000.

PROPOSAL

Attorneys' Fees. Under the measure, attorney fees for any legal matter would be subject to the laws in effect on January 1, 1995. Any changes to these state laws by the Legislature would also require a vote of the electorate, unless the changes further the purposes of the measure, in which case they could be enacted by a two-thirds vote of each house.

Excessive Attorney Fees. The measure enacts into law existing State Bar rules prohibiting attorneys from collecting excessive fees, and provides that clients can sue attorneys to recover fees that have been found to be excessive by the court. The measure enacts into law criteria for determining whether a fee is excessive. The criteria are similar to those currently used by the State Bar.

Attorney Discipline for Frivolous Legal Actions. The measure requires that a court impose sanctions against an attorney if the court determines that the attorney has filed a frivolous legal action. Attorneys may appeal the proposed sanctions. Once the appeals are final, the court is required to notify the State Bar if sanctions have been imposed on an attorney, regardless of the amount of the sanction. The sanctioned attorney is required to reimburse the court for all expenses incurred in reporting sanctions to the State Bar. If the State Bar receives three notifications of court sanctions against the same attorney within a five-year period, the State Bar is required to recommend appropriate disciplinary action to the Supreme Court, including but not limited to, suspension or disbarment.

The measure also requires that the sanctioned attorney must notify the client that sanctions had been imposed due to the attorney's conduct in the case. Additionally, the measure prohibits attorneys from collecting fees for services performed in connection with a lawsuit in which the court had imposed sanctions.

FISCAL EFFECT

The net fiscal impact of this measure on state and local government is unknown, but is probably not significant. The fiscal impact would depend largely on how attorneys and courts respond to the discipline and sanction procedures for frivolous legal actions established by the measure. Thus, to the extent that the measure deters some frivolous legal actions, court-related costs could be reduced. On the other hand, the measure could increase the number of court hearings and appeals related to determination of excessive fees and attorney sanctions. To the extent that this results, court-related costs could increase.

For text of Proposition 207 see page 88

207 Attorneys. Fees. Right to Negotiate. Frivolous Lawsuits. Initiative Statute.

Argument in Favor of Proposition 207

KEEP YOUR CONTINGENCY FEE PROTECTION.

Nobody wants to be forced to hire a lawyer. But a contingent fee lawyer can give you a fighting chance against corporations and insurance company lawyers.

Lobbyists for multi-million dollar corporations and insurance companies give money to politicians. They want to change the law so that consumers can't hire a contingency fee attorney.

Yes on Proposition 207 keeps consumers' contingency fee protections in place until the voters—not the politicians—change them.

PROPOSITION 207 PUNISHES BAD LAWYERS.

Proposition 207 was written by responsible consumer attorneys who protect people from stock swindlers, insurance companies and manufacturers of dangerous products. It punishes the bad lawyers without taking away consumers' contingency fee protections.

Yes on Proposition 207 is your chance to punish the lawyers who file frivolous lawsuits.

NO FEES FOR FRIVOLOUS LAWSUITS.

Frivolous lawsuits are no joke. They hurt consumers and retired people who have good cases.

Yes on Proposition 207 takes *all* the fees away from a lawyer when a judge rules that their lawsuit or defense is frivolous.

THREE STRIKES AND THEY'RE OUT.

Just like some criminals who never learn, there are irresponsible lawyers who should be put out of business.

Yes on Proposition 207 punishes irresponsible lawyers who file three frivolous lawsuits—they can lose their license.

GOOD FOR THE GOOSE.

GOOD FOR THE GANDER.

There are irresponsible lawyers on both sides. Often insurance company lawyers file frivolous motions to delay legitimate cases.

Yes on Proposition 207 punishes irresponsible lawyers no matter which side they are on.

STOP FRIVOLOUS LAWSUITS.
KEEP YOUR CONTINGENCY FEE PROTECTION.
VOTE YES ON PROPOSITION 207.

MARY E. ALEXANDER
President, Consumer Attorneys of California

Rebuttal to Argument in Favor of Proposition 207

We must have the ability to hire an attorney when we need one. We can do that now. *We don't need 207.*

The trial lawyers promoting 207 are just trying to protect their outrageous fees. They don't want anyone to jeopardize their sweetheart deals like their bogus lawsuit "on behalf" of cereal consumers:

CONSUMERS GOT COUPONS FOR MORE BOXES OF CEREAL WHILE THEIR LAWYERS GOT $1.75 MILLION IN FEES. (Washington Post, 4/8/96)

The ambulance-chasing trial lawyers behind 207 spend millions of dollars on television and billboard advertising to promote frivolous lawsuits!

207 will mean more frivolous lawsuits, costing consumers millions of dollars a year in higher costs for such things as insurance and health care.

Now the lawyers want us to believe that they're going to "punish" themselves and take away their fees for frivolous lawsuits!

Next, they use the "three strikes" slogan to make us think they are "tough on themselves." But the trial lawyers wrote this "loophole" so it won't work!

If they really wanted to curb frivolous lawsuits, they would do it in the Legislature. Official records document they gave almost $7 million to California politicians between 1990 and 1994. These millions went to protect their big fees.

Even after pumping out millions in contributions, the trial lawyers now want the ultimate fee protection for themselves: Proposition 207. *207 doesn't protect us from greedy lawyers and lawsuit abuse—it just protects THEIR fees.*

207 IS A SMOKE SCREEN. VOTE NO ON 207.

SARAH F. CHEAURE
Executive Director, Citizens Against Lawsuit Abuse (CALA)

MARTYN B. HOPPER
State Director, National Federation of Independent Business/California

JOHN SULLIVAN
President, Association for California Tort Reform

Attorneys. Fees. Right to Negotiate. Frivolous Lawsuits. Initiative Statute. 207

Argument Against Proposition 207

VOTE NO ON PROPOSITION 207: A TRIAL LAWYER TRICK.

Trial lawyers want you to think 207 limits lawyer fees and stops frivolous lawsuits. This is a SMOKE SCREEN.

PROPOSITION 207 SHOULD BE CALLED THE LAWYERS' FEE-PROTECTION INITIATIVE!

The real purpose of 207 is to *prohibit limits on attorney fees.* A few greedy lawyers want to make sure they can always take whatever amount they can get away with from a settlement or judgment.

Hidden in the actual language of Proposition 207 is their real purpose. THE CALIFORNIA ATTORNEY GENERAL'S OFFICIAL TITLE AND SUMMARY (see second sentence) contains this language:

". . . amount of attorneys' fees . . . shall not be restricted."

THE SAN JOSE MERCURY NEWS ALSO ANALYZED THE MEASURE AND DESCRIBED IT AS:

"A statutory measure sponsored by trial attorneys that would prohibit the state from regulating attorney fees."

— San Jose Mercury News, June 29, 1996

Not only does the bogus language of 207 prevent reasonable limits on what attorneys can take, it could actually make it more difficult to prevent frivolous lawsuits and could even discourage judges from cracking down on frivolous lawsuits.

Trial lawyers gave millions of dollars to their special interest committee to pay for signatures to put Proposition 207 on the ballot. They are contributing more money for a campaign supporting it.

Do you believe trial lawyers are doing this to limit their own fees and prohibit themselves from filing frivolous lawsuits? Of course not.

The lawyers promoting 207 specialize in ambulance-chasing lawsuits. They tried to confuse the public last year by changing their name from "trial lawyers" to "consumer attorneys."

They make one phone call or write one letter and still take a huge fee. *The lawyers end up making thousands of dollars an hour and the victims end up with a fraction of their settlement—meager compensation for their injuries.* Now they want to make sure their fees can never be regulated.

We must be able to hire attorneys when we need them. But fees must be fair. Unless we defeat 207, the Legislature will be *forever prohibited* from protecting people from unfair, one-sided fee agreements written by lawyers. Trial lawyers will be free to write their own ticket from then on.

And, if 207 is enacted, it would require another costly ballot proposition to ever place fair limits on what lawyers can take.

The real intent of the lawyers who wrote 207 is simple: *They want to lock in their ability to take whatever they can get from a client.* The rest of 207 is nothing more than a disguise to hide their real purpose. These other sections offer no truly new protections and could end up costing taxpayers more because they are so complex.

VOTE NO ON PROPOSITION 207: THE "TRIAL LAWYERS' FEE PROTECTION INITIATIVE."

JOHN SULLIVAN
President, Association for California Tort Reform

MARTYN B. HOPPER
State Director, National Federation of Independent Business/California

BILL MORROW
Assemblyman, 73rd District
Chairman, Assembly Judiciary Committee

Rebuttal to Argument Against Proposition 207

The corporate lobbyists and special interests who oppose Proposition 207 are being unfair to California Attorney General Dan Lungren when they selectively quote his OFFICIAL TITLE AND SUMMARY.

They are trying to make it look like he used his official position to say Proposition 207 does nothing about frivolous lawsuits.

That's wrong.

They left out the part of the Attorney General's OFFICIAL TITLE AND SUMMARY that talks about punishing lawyers who file Frivolous Lawsuits:

Proposition 207:

"Authorizes court to impose sanctions upon attorney who files a lawsuit or pleading which is completely without merit or filed solely to harass the opposing party."

Attorney General Lungren's OFFICIAL TITLE AND SUMMARY goes on to say:

Proposition 207:

"Prohibits sanctioned attorney from collecting fees for (Frivolous) case. Requires State Bar to recommend appropriate discipline for attorneys who have repeated sanctions."

Since all of these things are in Attorney General Lungren's OFFICIAL TITLE AND SUMMARY, why are our opponents using such deceptive arguments?

The answer is also in Attorney General Lungren's OFFICIAL TITLE AND SUMMARY:

Proposition 207:

"Provides the right to negotiate amount of attorney's fees, whether fixed, hourly or contingent, shall not be restricted. Prohibits attorney from charging/collecting excessive or unconscionable fees."

Proposition 207 was written by responsible consumer attorneys who protect people from stock swindlers, insurance companies and manufacturers of dangerous products.

Proposition 207 keeps consumers' contingency fee protections until the voters—not the politicians—change them.

Stop Frivolous Lawsuits. Vote "Yes" on Proposition 207.

MARY E. ALEXANDER
President, Consumer Attorneys of California

Campaign Contributions and Spending Limits. Restricts Lobbyists. Initiative Statute.

Official Title and Summary Prepared by the Attorney General

CAMPAIGN CONTRIBUTIONS AND SPENDING LIMITS. RESTRICTS LOBBYISTS. INITIATIVE STATUTE.

- Limits a contributor's campaign contributions per candidate to $100 for districts of less than 100,000, $250 for larger districts, and $500 for statewide elections. Committees of small contributors can contribute twice the limit. Contribution limits approximately double for candidates who agree to limit spending. Limits total contributions from political parties, businesses, unions and others. Prohibits transfers between candidates.
- Limits fundraising to specified time before election.
- Prohibits lobbyists from making and arranging contributions to those they influence.
- Requires disclosure of top contributors on ballot measure advertising.
- Increases penalties under Political Reform Act.

Summary of Legislative Analyst's Estimate of Net State and Local Government Fiscal Impact:

- Adoption of this measure would result in costs to state and local governments for implementation and enforcement of new campaign finance limitations in the range of up to $4 million annually.
- The measure would result in unknown, but probably not significant, additional state and local election costs.

Analysis by the Legislative Analyst

BACKGROUND

Campaign Contribution and Spending Limits. Federal law limits the amount of money individuals and groups can contribute to a candidate and to the candidate's campaign committee for federal elective office. State law generally does not impose similar limits on state and local campaigns. However, some local governments in California have established such limits for local elective offices.

In addition, current state law contains no limits on the amounts of personal loans or personal funds candidates can use for their own elections. Also, there are no aggregate limits on what individuals and groups can contribute to all candidates for state and local elective offices. Furthermore, there are no prohibitions on lobbyists making, transmitting, or arranging campaign contributions. Finally, there are no limits on the amounts of money candidates, their campaign committees, or other groups in support of the candidate, can spend in any election.

Reporting Requirements. Both state and federal law require candidates for elective office to report contributions they receive and spend for their campaigns. In addition, state law requires that lobbyists register with the Secretary of State's office.

Court Review. The specific provisions of this measure have not been reviewed by either state or federal courts. In California and other states, a few provisions similar to those contained in this measure have been challenged in court and have been invalidated.

PROPOSAL

This measure makes a number of changes to current state law regarding campaign contributions and spending. Specifically, the measure:

- Limits the amount of campaign contributions that an individual or group can make to a candidate for state and local elective office and prohibits lobbyists from making contributions.
- Establishes voluntary campaign spending limits.
- Limits when campaign fund-raising may occur.
- Establishes penalties for violations of the measure and increases penalties for existing campaign law violations.

Limits on Campaign Contributions

Limits on Contributions to a Single Candidate. The measure establishes limits on the amount of political campaign contributions that an individual, group (including a business, labor organization, or political action committee), or political party may make to a candidate for statewide office (such as the Governor), the state Legislature, and local elective office. Figure 1 summarizes these limits. As discussed later, these contribution limits approximately double if a candidate agrees to specified campaign spending limits. This measure prohibits the transfer of campaign funds from one candidate to another. This measure does not set limits for any candidates for federal office.

Limits on Contributions to All Candidates. The measure restricts the total amount an individual, business, labor organization, or political action committee, can contribute to all candidates to no more than $25,000 in any two-year period. Contributions from political parties are limited to no more than 25 percent of the voluntary spending limit for the office.

Other Limits. The measure limits the total amount of loans a candidate may make to his or her campaign. These limits are $50,000 for candidates for Governor and $20,000 for all other candidates. Officeholders and candidates are prohibited from soliciting or receiving contributions from, or arranged by, lobbyists.

Figure 1

Proposition 208
Campaign Contribution Limits [a]

Contributor	Candidate for: Legislative and Local Elective Office [b]	Statewide Office
Individual	$250	$500
Business, labor organization, and political action committee	$250	$500
Political party	No more than 25 percent of voluntary spending limits for each office.	No more than 25 percent of voluntary spending limits for each office.
"Small Contributor Committee" [c]	$500	$1,000
Lobbyist	Prohibited	Prohibited
Transfer from other candidate	Prohibited	Prohibited

[a] Assumes candidate does not accept campaign spending limits. If spending limits are accepted, then contribution limits approximately double, except for contributions from political parties.

[b] These limits are for districts with 100,000 or more residents. Districts with fewer than 100,000 residents have lower contribution limits.

[c] Defined by the measure as a committee with 100 or more members, none of whom contribute more than $50 to the committee in a calendar year, and is not controlled by any candidate.

Voluntary Campaign Spending Limits

The measure establishes voluntary campaign spending limits for state offices, as shown in Figure 2. Local governments would be allowed to set spending limits, but the limits cannot be any more than $1 per resident.

The measure requires that before accepting campaign contributions, a candidate must file a statement declaring whether he or she agrees to accept spending limits.

Higher Contribution Limits and Access to Ballot Pamphlets. Candidates who accept the voluntary spending limits are allowed to receive double the contribution limits shown in Figure 1. For example, a candidate for the state Legislature who agrees to accept the voluntary spending limits could receive a campaign contribution of $500 from an individual, while a candidate who does not accept the voluntary spending limits would be limited to a contribution of $250. Contribution limits from political parties, however, would not change.

In addition to being allowed to receive higher contribution amounts, candidates who accept the voluntary spending limits would be so identified on the ballot and in ballot pamphlets. These candidates also would be entitled to place a statement free-of-charge in the applicable state or local ballot pamphlet. Candidates who do not accept the spending limits may also place a statement in the ballot pamphlet, but would have to pay the costs of printing, handling, and mailing the statement.

Figure 2

Proposition 208
Voluntary Campaign Spending Limits

	Primary Election Limit	General Election Limit
State Assembly	$ 150,000	$ 200,000
State Senate	300,000	400,000
Statewide office (other than Governor)[a]	1,500,000	2,000,000
Governor	6,000,000	8,000,000

[a] Such as Lieutenant Governor, Attorney General, and State Treasurer.

Restrictions on When Contributions May Be Accepted

This measure places restrictions on when campaign contributions may be accepted. For any elective office that serves fewer than one million residents, no candidate or campaign committee may accept contributions more than six months before any primary, or special primary election. For larger districts and statewide offices, candidates and their committees are prohibited from accepting contributions more than 12 months prior to any primary or special primary election. Fund-raising for all candidates must end 90 days after the date of the election or the date of their withdrawal from the election.

Other Provisions

Penalties and Enforcement. This measure increases penalties for violations of campaign law. Enforcement of the measure's provisions can either be through governmental agencies, such as the state Fair Political Practices Commission (FPPC), a county district attorney, or a city attorney. In addition, any person who resides in the candidate's jurisdiction would be allowed to sue a candidate who violates the reporting provisions of the measure.

Disclosure of Major Donors. The measure requires that campaign advertisements for or against ballot measures disclose the name of donors making contributions above specified levels.

FISCAL EFFECT

This measure would result in additional costs to the state and local governments. Based on information provided by the FPPC and the Secretary of State, we estimate that the costs for implementation and enforcement would be up to $4 million annually. The measure includes an annual General Fund appropriation of $500,000 to the FPPC to partially offset these costs.

In addition, the measure would result in additional state and local election costs to provide additional information on candidates in voter pamphlets. These costs are unknown, but are probably not significant.

For text of Proposition 208 see page 89

208 Campaign Contributions and Spending Limits. Restricts Lobbyists. Initiative Statute.

Argument in Favor of Proposition 208

Had enough of SPECIAL INTERESTS and their high-priced LOBBYISTS BUYING POLITICAL INFLUENCE with CAMPAIGN CONTRIBUTIONS?

California is one of the few states in the country with ABSOLUTELY NO LIMITS on what special interests can contribute to political candidates in regular state elections!

During the last election season, candidates for state office received a staggering $196 million in campaign contributions! The top ten special interest contributors alone gave $9 million.

One candidate for the Legislature received $125,000 from a tobacco company one week before the election. He won by a mere 597 votes. *Big money made the difference.*

WHEN BIG-MONEYED SPECIAL INTERESTS *WIN,* THE PEOPLE *LOSE:*

- as consumers, we pay more for goods and services;
- our public health and safety are sacrificed;
- we end up paying for the special interest tax loopholes campaign contributions buy.

Enough is enough. It's time to end the domination of the political process by big money.

IT'S TIME TO TAKE BACK OUR GOVERNMENT. That's what Proposition 208 will do.

Prop. 208 is a carefully written, comprehensive package designed to fix the political process. It is a practical, workable solution to rampant special interest influence.

Prop. 208 reforms apply to all levels of government, from City Hall to the Governor's office. Here's what it does:

- STOPS lobbyists making or arranging campaign contributions,
- LIMITS campaign contributions,
- SLASHES campaign spending,
- BANS non-election year fundraising,
- BANS campaign cash transfers between politicians,
- REQUIRES full disclosure of those who pay for initiative ads,
- INCREASES penalties for violating campaign laws.

PROPOSITION 208 WILL GIVE CALIFORNIA THE *TOUGHEST* CAMPAIGN FINANCE LAW IN THE NATION!

We need reform NOW!

That's exactly what Prop. 208 will deliver. It was carefully written to meet the Constitutional test so that the courts will enforce it when it passes.

Your YES vote on Prop. 208 will help CLEAN UP POLITICS and insure that our elected officials serve the public's interest rather than the special interests.

Prop. 208 is sponsored by:

- League of Women Voters of California
- American Association of Retired Persons (AARP)—California
- Common Cause
- United We Stand America

These citizen groups put Prop. 208 on the ballot and urge you to vote YES.

Prop. 208 will make politicians accountable to the *people* rather than to *big campaign contributors.*

That's why it's supported by groups across the political spectrum, forming the broadest coalition ever assembled to clean up government. Endorsers include:

- American Lung Association of California
- Congress of California Seniors
- Consumers for Auto Reliability & Safety
- Howard Jarvis Taxpayers Association
- Planning & Conservation League
- National Council of Jewish Women
- Seniors for Action
- United Anglers

PROPOSITION 208 IS THE *ONLY GENUINE* CAMPAIGN REFORM MEASURE ON THE BALLOT.

Please join with the League of Women Voters, American Association of Retired Persons (AARP)—California, Common Cause, United We Stand America, and all of us who want real political reform.

LET'S MAKE THE POLITICIANS RESPONSIVE TO *US,* NOT BIG CAMPAIGN CONTRIBUTORS.

Please Vote Yes on Proposition 208.

TONY MILLER
Executive Director, Californians for Political Reform, A Committee Sponsored by League of Women Voters of California, American Association of Retired Persons—California (AARP), Common Cause and United We Stand America

FRAN PACKARD
President, League of Women Voters of California

JEAN CARPENTER
Co-Chair, Political Reform Task Force of the American Association of Retired Persons—California (AARP)

Rebuttal to Argument in Favor of Proposition 208

The statement for 208 doesn't provide many specifics on what it will do. That's because it doesn't really do much.

We don't need cosmetic improvements. We need a complete overhaul of the current system where special interests can control what's going on via big money and campaign contributions.

Before you vote, please carefully read Props. 208 and 212, and the nonpartisan summaries in this booklet. Proposition 208 doesn't deliver real, tough reform of politics. Only 212 cracks down hard on special interests and self-interested politicians.

Compare the facts:

208 IS SOFT ON SPECIAL INTERESTS

208 permits politicians to take $500 and $1,000 contributions from PACs and wealthy individuals. Proposition 212 sets limits five times tougher—$100 and $200.

208 permits politicians to take any and all their money from outside their own district. Proposition 212 sets a tough limit—25% maximum.

208 permits corporation and union contributions. Proposition 212 bans them.

A 208 loophole permits political parties to funnel hundreds of thousands of dollars to a candidate.

208 IS SOFT ON LOBBYISTS

208 permits corporations to take tax deductions for lobbying. 212 bans this tax break.

208 IS SOFT ON CAMPAIGN SPENDING

208's limits are only *voluntary.*

208 COSTS TAXPAYERS MONEY

According to the official Fiscal Analysis in this Ballot Pamphlet, 208 costs $4 million annually. Proposition 212 saves $2 million.

YES ON 212, NOT 208

208's well-intentioned but weak approach—small reforms, voluntary compliance, too many loopholes—won't work.

Please Vote Yes on 212: Tough, mandatory, no loopholes.

ED MASCHKE
Executive Director, CALPIRG, California Public Interest Research Group

YVONNE VASQUEZ
Association of Community Organizations for Reform Now, Board Member

FERNANDO IGREJAS
Californians Against Political Corruption, Outreach Director

 Arguments printed on this page are the opinions of the authors and have not been checked for accuracy by any official agency.

Campaign Contributions and Spending Limits. Restricts Lobbyists. Initiative Statute. 208

Argument Against Proposition 208

Don't Waste Your Vote on 208. Vote Yes on Proposition 212.

208 is a well-intentioned but compromised proposal for reforming California's corrupted politics.

Its sponsors have sought for 25 years to reform campaign financing in California, yet we still have no limits. Unfortunately, intimidated by a few judges, they have now chosen to retreat from the big problems and offer small solutions.

The result? Provisions that do little more than:

- replicate ineffectual federal campaign finance laws which have left Congress awash in special interest money;
- expand the set of people dominating California politics from the super rich to the simply rich, continuing to leave out average citizens;
- grant extraordinary power to political parties funded by large corporate contributions.

Fortunately, there is an alternative, tough measure on the ballot—Prop. 212.

208 FAILS TO REALLY LIMIT CAMPAIGN CONTRIBUTIONS

208 sets no limits on out-of-district contributions, now 80% of the campaign money flowing to California legislators. Prop. 212 limits outsiders' money to no more than 25% of a candidate's total funds.

208 allows state legislators to accept $500, and candidates for Governor $1,000, from wealthy contributors. Prop. 212 limits contributions to $100 for state legislators and $200 for statewide races.

208 fails to ban corporate and union contributions, which even the notoriously weak federal campaign laws ban. 208 allows them to give $500, $1,000, and $5,000 contributions. Prop. 212 bans their money completely, as does federal law.

208 PROPOSES SPENDING LIMITS WHICH ARE MERELY VOLUNTARY, AND TOO HIGH

208 sets *voluntary* spending limits of $14,000,000 for Governor, $700,000 for State Senate, and $350,000 for Assembly races. These amounts double or triple under various circumstances. It's a stretch to call these *limits*. If 208 had been in effect in 1994, only 6 of 200 legislative candidates would have raised that much money!

208 HAS A MASSIVE LOOPHOLE

208 allows the Democratic, Republican, and other parties to accept contributions of $5,000 from corporations, unions, PACs, and rich individuals. In turn, the parties can contribute up to $1,050,000 to Assembly candidates, $2,100,000 to Senate candidates, and $28,000,000 to candidates for Governor. This allows special interests to get around contribution limits entirely, defeating the whole purpose of campaign reform.

Prop. 212 limits contributions from parties to candidates to $100 ($200 for Governor and other statewide offices).

208 LEGISLATES AN ADVANTAGE FOR MONEYED INTERESTS

208 actually takes one giant step backwards. It encourages candidates to accept voluntary spending limits by offering a bizarre incentive: allowing candidates to double the size of checks they can accept from wealthy corporations and individuals.

This gives an unfair advantage to candidates able to attract $1,000 contributions from Sacramento insiders and special interests seeking influence. It punishes grassroots candidates trying to raise money from friends, co-workers, and neighbors. How many of your friends and neighbors give $1,000 to a candidate? Real reform should level the playing field. 208 doesn't.

Good intentions aren't good enough. We need tough reform.

DON'T WASTE YOUR VOTE ON 208. VOTE YES FOR PROPOSITION 212.

AMY SCHUR
California Director, Association of Community Organizations for Reform Now

DR. CAROL EDWARDS
Reverend

RICHARD SOLOMON
Professor of Law and Legal Ethics

Rebuttal to Argument Against Proposition 208

"The American Lung Association urges a YES vote on PROPOSITION 208. Prop. 208 is the ONLY measure on the ballot that will stop the flood of tobacco money pouring into the campaign warchests of our elected officials."

—American Lung Association

- *PRACTICAL, EFFECTIVE, ENFORCEABLE*

Prop. 208 provides a comprehensive solution to corrupting special-interest influence in California. Sponsored by the League of Women Voters, AARP, Common Cause and UWSA, it was carefully written so that it will be *UPHELD* by the Courts and give California the nation's best campaign reform law.

- *SOLUTIONS, NOT RHETORIC*

Opponents of Prop. 208 prefer meaningless unconstitutional gestures that will never go into effect. Voters are fed up with just "sending a message." We want *REAL SOLUTIONS* that actually get the job done, not empty political rhetoric.

- *EVEN-HANDED REFORM*

Prop. 208 is an even-handed reform package which favors no interest groups. Under Prop. 208, contributions to candidates from corporations, banks and unions, would be strictly limited to the same levels as individual contributors.

- *GETTING BIG MONEY OUT*

Without restrictions, special interests run rampant, contributing as much as $1 million to a single candidate in a single race! Prop. 208 will cut the top ten's special-interest contributions by over 90%.

- *PUBLIC ACCOUNTABILITY*

Proposition 208's sole purpose is to make politicians accountable to the voters, not big campaign contributors.

Please vote *YES ON PROPOSITION 208,* the *ONLY* measure that will bring genuine campaign reform and get big money out of politics.

FRAN PACKARD
President, League of Women Voters of California

ROBERT HOLUB
Co-Chair, Political Reform Task Force of the American Association of Retired Persons—California (AARP)

RUTH HOLTON
Executive Director, California Common Cause

Prohibition Against Discrimination or Preferential Treatment by State and Other Public Entities. Initiative Constitutional Amendment.

Official Title and Summary Prepared by the Attorney General

PROHIBITION AGAINST DISCRIMINATION OR PREFERENTIAL TREATMENT BY STATE AND OTHER PUBLIC ENTITIES. INITIATIVE CONSTITUTIONAL AMENDMENT.

- Prohibits the state, local governments, districts, public universities, colleges, and schools, and other government instrumentalities from discriminating against or giving preferential treatment to any individual or group in public employment, public education, or public contracting on the basis of race, sex, color, ethnicity, or national origin.
- Does not prohibit reasonably necessary, bona fide qualifications based on sex and actions necessary for receipt of federal funds.
- Mandates enforcement to extent permitted by federal law.
- Requires uniform remedies for violations. Provides for severability of provisions if invalid.

Summary of Legislative Analyst's Estimate of Net State and Local Government Fiscal Impact:

- The measure could affect state and local programs that currently cost well in excess of $125 million annually.
- Actual savings to the state and local governments would depend on various factors (such as future court decisions and implementation actions by government entities).

Analysis by the Legislative Analyst

BACKGROUND

The federal, state, and local governments run many programs intended to increase opportunities for various groups—including women and racial and ethnic minority groups. These programs are commonly called "affirmative action" programs. For example, state law identifies specific goals for the participation of women-owned and minority-owned companies on work involved with state contracts. State departments are expected, but not required, to meet these goals, which include that at least 15 percent of the value of contract work should be done by minority-owned companies and at least 5 percent should be done by women-owned companies. The law requires departments, however, to reject bids from companies that have not made sufficient "good faith efforts" to meet these goals.

Other examples of affirmative action programs include:

- Public college and university programs such as scholarship, tutoring, and outreach that are targeted toward minority or women students.
- Goals and timetables to encourage the hiring of members of "underrepresented" groups for state government jobs.
- State and local programs required by the federal government as a condition of receiving federal funds (such as requirements for minority-owned business participation in state highway construction projects funded in part with federal money).

PROPOSAL

This measure would eliminate state and local government affirmative action programs in the areas of public employment, public education, and public contracting to the extent these programs involve "preferential treatment" based on race, sex, color, ethnicity, or national origin. The specific programs affected by the measure, however, would depend on such factors as (1) court rulings on what types of activities are considered "preferential treatment" and (2) whether federal law requires the continuation of certain programs.

The measure provides exceptions to the ban on preferential treatment when necessary for any of the following reasons:

- To keep the state or local governments eligible to receive money from the federal government.
- To comply with a court order in force as of the effective date of this measure (the day after the election).
- To comply with federal law or the United States Constitution.
- To meet privacy and other considerations based on sex that are reasonably necessary to the normal operation of public employment, public education, or public contracting.

FISCAL EFFECT

If this measure is approved by the voters, it could affect a variety of state and local programs. These are discussed in more detail below.

Public Employment and Contracting

The measure would eliminate affirmative action programs used to increase hiring and promotion opportunities for state or local government jobs, where sex, race, or ethnicity are preferential factors in hiring, promotion, training, or recruitment decisions. In addition, the measure would eliminate programs that give preference to women-owned or minority-owned companies on public contracts. Contracts affected by the measure would include contracts for construction projects, purchases of computer equipment, and the hiring of consultants. These prohibitions would not apply to those government agencies that receive money under federal programs that require such affirmative action.

The elimination of these programs would result in savings to the state and local governments. These savings would occur for two reasons. First, government agencies no longer would incur costs to administer the programs. Second, the prices paid on some government contracts would decrease. This would happen because bidders on contracts no longer would need to show "good faith efforts" to use minority-owned or women-owned subcontractors. Thus, state and local governments would save money to the extent they otherwise would have rejected a low bidder—because the bidder did not make a "good faith effort"—and awarded the contract to a higher bidder.

Based on available information, we estimate that the measure would result in savings in employment and contracting programs that could total tens of millions of dollars each year.

Public Schools and Community Colleges

The measure also could affect funding for public schools (kindergarten through grade 12) and community college programs. For instance, the measure could eliminate, or cause fundamental changes to, *voluntary* desegregation programs run by school districts. (It would not, however, affect *court-ordered* desegregation programs.) Examples of desegregation spending that could be affected by the measure include the special funding given to (1) "magnet" schools (in those cases where race or ethnicity are preferential factors in the admission of students to the schools) and (2) designated "racially isolated minority schools" that are located in areas with high proportions of racial or ethnic minorities. We estimate that up to $60 million of state and local funds spent each year on voluntary desegregation programs may be affected by the measure.

In addition, the measure would affect a variety of public school and community college programs such as counseling, tutoring, outreach, student financial aid, and financial aid to selected school districts in those cases where the programs provide preferences to individuals or schools based on race, sex, ethnicity, or national origin. Funds spent on these programs total at least $15 million each year.

Thus, the measure could affect up to $75 million in state spending in public schools and community colleges.

The State Constitution requires the state to spend a certain amount each year on public schools and community colleges. As a result, under most situations, the Constitution would require that funds that cannot be spent on programs because of this measure instead would have to be spent for *other* public school and community college programs.

University of California and California State University

The measure would affect admissions and other programs at the state's public universities. For example, the California State University (CSU) uses race and ethnicity as factors in some of its admissions decisions. If this initiative is passed by the voters, it could no longer do so. In 1995, the Regents of the University of California (UC) changed the UC's admissions policies, effective for the 1997–98 academic year, to eliminate all consideration of race or ethnicity. Passage of this initiative by the voters might require the UC to implement its new admissions policies somewhat sooner.

Both university systems also run a variety of assistance programs for students, faculty, and staff that are targeted to individuals based on sex, race, or ethnicity. These include programs such as outreach, counseling, tutoring, and financial aid. The two systems spend over $50 million each year on programs that probably would be affected by passage of this measure.

Summary

As described above, this measure could affect state and local programs that currently cost well in excess of $125 million annually. The actual amount of this spending that might be saved as a result of this measure could be considerably less, for various reasons:

- The amount of spending affected by this measure could be less depending on (1) court rulings on what types of activities are considered "preferential treatment" and (2) whether federal law requires continuation of certain programs.
- In most cases, any funds that could not be spent for existing programs in public schools and community colleges would have to be spent on other programs in the schools and colleges.
- In addition, the amount affected as a result of *this* measure would be less if any existing affirmative action programs were declared unconstitutional under the United States Constitution. For example, five state affirmative action programs are currently the subject of a lawsuit. If any of these programs are found to be unlawful, then the state could no longer spend money on them—regardless of whether this measure is in effect.
- Finally, some programs we have identified as being affected might be changed to use factors other than those prohibited by the measure. For example, a high school outreach program operated by the UC or the CSU that currently uses a factor such as ethnicity to target spending could be changed to target instead high schools with low percentages of UC or CSU applications.

For the text of Proposition 209 see page 94

209 Prohibition Against Discrimination or Preferential Treatment by State and Other Public Entities. Initiative Constitutional Amendment.

Argument in Favor of Proposition 209

THE RIGHT THING TO DO!

A generation ago, we did it right. We passed civil rights laws to prohibit discrimination. But special interests hijacked the civil rights movement. Instead of equality, governments imposed quotas, preferences, and set-asides.

Proposition 209 is called the California Civil Rights Initiative because it restates the historic Civil Rights Act and proclaims simply and clearly: "The state shall not discriminate against, or grant preferential treatment to, any individual or group, on the basis of race, sex, color, ethnicity or national origin in the operation of public employment, public education, or public contracting."

"REVERSE DISCRIMINATION" BASED ON RACE OR GENDER IS PLAIN WRONG!

And two wrongs don't make a right! Today, students are being rejected from public universities because of their RACE. Job applicants are turned away because their RACE does not meet some "goal" or "timetable." Contracts are awarded to high bidders because they are of the preferred RACE.

That's just plain wrong and unjust. Government should not discriminate. It must not give a job, a university admission, or a contract based on race or sex. Government must judge all people equally, without discrimination!

And, remember, Proposition 209 keeps in place all federal and state protections against discrimination!

BRING US TOGETHER!

Government cannot work against discrimination if government itself discriminates. Proposition 209 will stop the terrible programs which are dividing our people and tearing us apart. People naturally feel resentment when the less qualified are preferred. We are all Americans. It's time to bring us together under a single standard of equal treatment under the law.

STOP THE GIVEAWAYS!

Discrimination is costly in other ways. Government agencies throughout California spend millions of your tax dollars for costly bureaucracies to administer racial and gender discrimination that masquerade as "affirmative action." They waste much more of your money awarding high-bid contracts and sweetheart deals based not on the low bid, but on unfair set-asides and preferences. This money could be used for police and fire protection, better education and other programs—for everyone.

THE BETTER CHOICE: HELP ONLY THOSE WHO NEED HELP!

We are individuals! Not every white person is advantaged. And not every "minority" is disadvantaged. Real "affirmative action" originally meant no discrimination and sought to provide opportunity. That's why Proposition 209 prohibits discrimination and preferences and allows any program that does not discriminate, or prefer, because of race or sex, to continue.

The only honest and effective way to address inequality of opportunity is by making sure that *all* California children are provided with the tools to compete in our society. And then let them succeed on a fair, color-blind, race-blind, gender-blind basis.

Let's not perpetuate the myth that "minorities" and women cannot compete without special preferences. Let's instead move forward by returning to the fundamentals of our democracy: individual achievement, equal opportunity and *zero tolerance for discrimination against—or for—any individual.*

Vote for FAIRNESS . . . not favoritism!

Reject preferences by voting YES on Proposition 209.

PETE WILSON
Governor, State of California

WARD CONNERLY
Chairman, California Civil Rights Initiative

PAMELA A. LEWIS
Co-Chair, California Civil Rights Initiative

Rebuttal to Argument in Favor of Proposition 209

THE WRONG THING TO DO!

A generation ago, Rosa Parks launched the Civil Rights movement, which opened the door to equal opportunity for women and minorities in this country. Parks is against this deceptive initiative. Proposition 209 highjacks civil rights language and uses legal lingo to gut protections against discrimination.

Proposition 209 says it eliminates quotas, but in fact, the U.S. Supreme Court already decided—twice—that they are illegal. Proposition 209's real purpose is to eliminate affirmative action equal opportunity programs for qualified women and minorities including tutoring, outreach, and mentoring.

PROPOSITION 209 PERMITS DISCRIMINATION AGAINST WOMEN.

209 changes the California Constitution to permit state and local governments to discriminate against women, excluding them from job categories.

STOP THE POLITICS OF DIVISION

Newt Gingrich, Pete Wilson, and Pat Buchanan support 209. Why? They are playing the politics of division for their own political gain. We should not allow their ambitions to sacrifice equal opportunity for political opportunism.

209 MEANS OPPORTUNITY BASED SOLELY ON FAVORITISM.

Ward Connerly has already used his influence to get children of his rich and powerful friends into the University of California. 209 reinforces the "who you know" system that favors cronies of the powerful.

"There are those who say, we can stop now, America is a color-blind society. But it isn't yet, there are those who say we have a level playing field, but we don't yet." Retired General Colin Powell [5/25/96].

VOTE NO ON 209!!!

PREMA MATHAI-DAVIS
National Executive Director, YWCA of the U.S.A.

KAREN MANELIS
President, California American Association of University Women

WADE HENDERSON
Executive Director, Leadership Conference on Civil Rights

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Prohibition Against Discrimination or Preferential Treatment by State and Other Public Entities. Initiative Constitutional Amendment.

209

Argument Against Proposition 209

VOTE NO ON PROPOSITION 209

HARMS EQUAL OPPORTUNITY FOR WOMEN AND MINORITIES

California law currently allows tutoring, mentoring, outreach, recruitment, and counseling to help ensure equal opportunity for women and minorities. Proposition 209 will eliminate affirmative action programs like these that help achieve equal opportunity for women and minorities in public employment, education and contracting. Instead of reforming affirmative action to make it fair for everyone, Proposition 209 makes the current problems worse.

PROPOSITION 209 GOES TOO FAR

The initiative's language is so broad and misleading that it eliminates equal opportunity programs including:

- tutoring and mentoring for minority and women students;
- affirmative action that encourages the hiring and promotion of qualified women and minorities;
- outreach and recruitment programs to encourage applicants for government jobs and contracts; and
- programs designed to encourage girls to study and pursue careers in math and science.

The independent, non-partisan California Legislative Analyst gave the following report on the effects of Proposition 209:

"[T]he measure would eliminate a variety of public school (kindergarten through grade 12) and community college programs such as counseling, tutoring, student financial aid, and financial aid to selected school districts, where these programs are targeted based on race, sex, ethnicity or national origin." [*Opinion Letter to the Attorney General,* 10/15/95].

PROPOSITION 209 CREATES A LOOPHOLE THAT ALLOWS DISCRIMINATION AGAINST WOMEN

Currently, California women have one of the strongest state constitutional protections against sex discrimination in the country. Now it is difficult for state and local government to discriminate against women in public employment, education, and the awarding of state contracts because of their gender. Proposition 209's loophole will undo this vital state constitutional protection.

PROPOSITION 209 LOOPHOLE PERMITS STATE GOVERNMENT TO DENY WOMEN OPPORTUNITIES IN PUBLIC EMPLOYMENT, EDUCATION, AND CONTRACTING, SOLELY BASED ON THEIR GENDER.

PROPOSITION 209 CREATES MORE DIVISION IN OUR COMMUNITIES

It is time to put an end to politicians trying to divide our communities for their own political gain. "The initiative is a misguided effort that takes California down the road of division. Whether intentional or not, it pits communities against communities and individuals against each other."

— Reverend Kathy Cooper-Ledesma
President, California Council of Churches.

GENERAL COLIN POWELL'S POSITION ON PROPOSITION 209:

"Efforts such as the California Civil Rights Initiative which poses as an equal opportunities initiative, but which puts at risk every outreach program, sets back the gains made by women and puts the brakes on expanding opportunities for people in need."

— Retired General Colin Powell, 5/25/96.

GENERAL COLIN POWELL IS RIGHT.

VOTE "NO" ON PROPOSITION 209—
EQUAL OPPORTUNITY MATTERS

FRAN PACKARD
President, League of Women Voters of California

ROSA PARKS
Civil Rights Leader

MAXINE BLACKWELL
Vice President, Congress of California Seniors, Affiliate of the National Council of Senior Citizens

Rebuttal to Argument Against Proposition 209

Don't let them change the subject. Proposition 209 bans discrimination and preferential treatment—period. Affirmative action programs that don't discriminate or grant preferential treatment will be UNCHANGED. Programs designed to ensure that all persons—regardless of race or gender—are informed of opportunities and treated with equal dignity and respect will continue as before.

Note that Proposition 209 doesn't prohibit consideration of economic disadvantage. Under the existing racial-preference system, a wealthy doctor's son may receive a preference for college admission over a dishwasher's daughter simply because he's from an "underrepresented" race. THAT'S UNJUST. The state must remain free to help the economically disadvantaged, but not on the basis of race or sex.

Opponents mislead when they claim that Proposition 209 will legalize sex discrimination. Distinguished legal scholars, liberals and conservatives, have rejected that argument as ERRONEOUS. Proposition 209 adds NEW PROTECTION against sex discrimination on top of existing ones, which remain in full force and effect. It does NOTHING to any existing constitutional provisions.

Clause c is in the text for good reason. It uses the legally-tested language of the original 1964 Civil Rights Act in allowing sex to be considered only if it's a "bona fide" qualification. Without that narrow exception, Proposition 209 would require unisex bathrooms and the hiring of prison guards who strip-search inmates without regard to sex. Anyone opposed to Proposition 209 is opposed to the 1964 Civil Rights Act.

Join the millions of voters who support Proposition 209. Vote YES.

DANIEL E. LUNGREN
Attorney General, State of California

QUENTIN L. KOPP
State Senator

GAIL L. HERIOT
Professor of Law

Minimum Wage Increase. Initiative Statute.

Official Title and Summary Prepared by the Attorney General

MINIMUM WAGE INCREASE. INITIATIVE STATUTE.

- Increases the state minimum wage for all industries to $5.00 per hour on March 1, 1997, and then to $5.75 per hour on March 1, 1998.
- Requires the California Industrial Welfare Commission to adopt minimum wage orders consistent with this section, which orders shall be final and conclusive for all purposes.

Summary of Legislative Analyst's Estimate of Net State and Local Government Fiscal Impact:

- The fiscal effect of this measure would depend on whether the federal minimum wage increase passed by Congress in August is signed into law. Because California's minimum wage must be at least as high as the federal rate, an increase in the federal rate would reduce the incremental fiscal effects of this measure.
- Unknown net impact on state and local government revenues, primarily depending on the measure's effect on the level of employment, income, and taxable sales in California.
- Annual state and local government wage-related costs of approximately $300 million (about $120 million if the federal minimum wage increase is enacted).
- Net annual savings in state health and welfare programs, potentially in the low tens of millions of dollars ($10 million to $15 million if the federal minimum wage is enacted).

Analysis by the Legislative Analyst

PROPOSAL

This measure would increase the minimum hourly wage paid by employers to employees working in all industries in California to $5.00 per hour beginning March 1, 1997, and to $5.75 per hour beginning March 1, 1998.

At the time this analysis was prepared (early August), California's minimum wage was equal to the federal rate of $4.25 per hour. However, the U.S. Congress had just passed legislation which would raise the federal minimum wage in two steps—to $4.75 per hour this year and to $5.15 per hour next year. If the President signs this minimum wage increase into law, California's minimum wage would automatically rise to the new federal rate. In this event, the net effect of this initiative when fully implemented in March 1998 would be to increase California's minimum wage from the new federal standard of $5.15 per hour up to $5.75 per hour.

BACKGROUND

Both state and federal law require that employers pay their workers a minimum hourly wage. Minimum wage standards were first enacted in California in 1916 and at the federal level in 1938 for the stated purpose of providing an adequate living standard. At present, state and federal laws are similar in terms of their scope and coverage. Where there are differences, employers usually must conform to the law providing the higher wage and broader coverage.

As of mid-1996, California and 38 other states had a minimum wage equal to the federal minimum wage of $4.25 per hour. Eleven states had rates higher than the federal level, ranging from $4.27 to $5.25 per hour.

When this analysis was prepared, both the U.S. Senate and House of Representatives had passed legislation which would raise the federal minimum wage in two steps—to $4.75 per hour this year and to $5.15 per hour next year. If the U.S. Congress reaches final agreement and this minimum wage increase is signed into law, California's minimum wage would automatically rise to the new federal rate. In this event, the net effect of *this* initiative when fully implemented in March 1998 would be to increase California's minimum wage from the new federal standard of $5.15 per hour up to $5.75 per hour.

Who Is Covered by the Minimum Wage? The categories of workers in California covered by the minimum wage have increased over the years so that most employees are now subject to the law. Some exceptions are actors and actresses, personal attendants (such as baby-sitters), and employers' family members. Our analysis assumes that the proposal would have no impact on who is covered by the minimum wage in California. However, depending on how the initiative is implemented, more or fewer employees could be covered by the measure than under existing law.

Characteristics of Minimum Wage Workers. Approximately 2 million of California's nearly 13 million workers earn less than $5.75 per hour. Most of these workers would be directly affected by this measure. Roughly one-fourth of those earning less than the proposed $5.75 minimum wage are teenagers, while the remaining three-fourths are adults age 20 and over. Industries employing significant numbers of these workers include retail stores, child care facilities, restaurants, fast food franchises, clothing manufacturers, and nursing facilities.

Past Changes in California's Minimum Wage. The minimum wage in California has increased nine times in the past 30 years—rising from $1.30 per hour in the mid-1960s to $4.25 per hour as of July 1996. The increases have been less than the rate of inflation during this period.

How the Minimum Wage Can Be Changed. California's minimum wage increases have usually occurred in one of two ways. The first is a change in the federal minimum wage, which as discussed above, results in an increase in California's minimum wage to the new higher federal level. The second is a state administrative process. Under this process, the California Industrial Welfare Commission can, by a majority vote of its members, issue "wage orders" to raise the state minimum wage for workers in any occupation, trade, or industry. The commission considers information from business, labor, and the public through a series of hearings. This process was last used by the commission in 1988, when it increased the minimum wage from $3.35 per hour to $4.25 per hour. This measure would require the Industrial Welfare Commission to issue minimum wage orders consistent with the proposed minimum wage increase.

FISCAL IMPACTS

Effects on the Economy

Much of the fiscal impact of this measure would be related to its various effects on the economy, including changes in employment, prices, and profits. For example:

- Most employees earning less than the proposed minimum wage would earn more. They would also spend more on goods and services, thereby generating certain increases in economic activity.
- At the same time, however, employers would face higher wage costs, which they would either absorb in the form of lower profits or attempt to offset through a variety of means. For instance, they may attempt to shift or "pass along" the costs of the higher wages to consumers by raising prices of the goods and services they sell. Alternatively, some employers may offset the costs of the increase in wages by automating, hiring fewer workers (or reducing workers' hours), or limiting fringe benefits. Some businesses that are not able to shift the effects of the higher minimum wage may reduce economic activity in California. This would most likely occur in industries that have a large share of expenses for low-wage workers or that are subject to competition from other states and other countries.

In our view, an increase in the minimum wage would result in some decline in employment and business activity in California relative to what would otherwise have occurred. (If the federal minimum wage is increased, the economic effects attributable to this initiative would be less.)

Effects on State and Local Revenues

The measure would have varying impacts on state and local revenues. For instance, a reduction in business activity, employment, and income in California would result in lower income tax revenues. These declines could be offset, however, by increased spending on goods subject to the sales tax. Higher sales taxes would occur if businesses raised prices of taxed goods in response to the increase in the minimum wage, and this increase is not offset by reduced quantities of goods sold. Sales taxes could also increase if those receiving the higher minimum wage spent a relatively high portion of their new earnings on goods subject to the sales tax.

The net impact on state and local revenues is unknown.

Effects on State and Local Costs

The effects of this measure on state and local costs would depend on whether the federal minimum wage increase is enacted. The costs and savings identified below are based on a comparison between the proposed $5.75 per hour rate and the $4.25 per hour rate in effect in July 1996. If the federal minimum wage is raised to $5.15 per hour, the effects attributable to this measure would be about 40 percent of these amounts.

Costs for Private Service Providers. State and local governments provide various public services—primarily in the health and welfare area—that use low-wage, private sector employees. The increase in the minimum wage would directly raise these costs in three specific areas by a combined total of approximately $225 million.

- ***In-Home Supportive Services.*** This program provides services to low-income aged, blind, or disabled persons who are unable to remain safely in their own homes without assistance. In this area, the state would experience added annual costs of about $130 million and counties would experience added costs of about $70 million for wage increases for approximately 170,000 service providers.
- ***Medi-Cal Nursing Facility Rates.*** The state would incur added annual costs of approximately $13 million for nursing facility reimbursement rates under the Medi-Cal Program because of the added salary costs for employees. This component of Medi-Cal provides long-term nursing care for certain low-income persons.
- ***Child Care Programs.*** Increased state costs for child care programs administered by the Departments of Education and Social Services would total several million dollars annually (probably less than $10 million in total), due to increased wages to care providers.

Costs for Governmental Employees. The increases in the minimum wage would directly increase costs to state and local governments for those employees who earn less than the proposed minimum wage. There are relatively few public sector employees in this category. We estimate that added costs for these employees would be less than $15 million annually.

Other Costs. The higher minimum wage would have a variety of other, more indirect, effects on state and local government costs. For instance, a minimum wage increase would result in higher wages for some workers earning above the new higher minimum wage. This would result in additional costs—potentially in the tens of millions of dollars. Likewise, any increase in inflation resulting from the initiative (to the extent businesses "pass along" the higher minimum wage costs to consumers) would result in added public costs. The magnitude of these costs is unknown.

Public Sector Savings. Families with limited income currently qualify for public assistance in California, with benefit levels generally being phased out as a recipient's income rises. By raising the earnings of some public assistance recipients, this measure would result in reduced state costs. These savings, primarily in the Medi-Cal and Aid to Families with Dependent Children (AFDC) programs, would likely be in the tens of millions of dollars annually. On the other hand, the measure's impact on business activity would increase public assistance payments to some people who lose their jobs. These costs would partially offset the public assistance savings noted above.

For text of Proposition 210 see page 94

210 Minimum Wage Increase. Initiative Statute.

Argument in Favor of Proposition 210

HARD WORKING CALIFORNIANS DESERVE A LIVING WAGE.

THE MINIMUM WAGE BUYS YOU LESS TODAY THAN AT ANY TIME IN THE PAST 40 YEARS.

California's minimum wage is at a forty-year low. The value of California's minimum wage has dropped 26% in eight years. A full-time minimum wage worker's income is 32% below the federal poverty line for a family of three.

PROP. 210 RAISES THE MINIMUM WAGE, HELPING TO LIFT MILLIONS OF CALIFORNIANS OUT OF POVERTY.

California hasn't raised the minimum wage since 1988. Prop. 210 brings it to $5.00/hour in 1997 and to $5.75/hour in 1998, restoring its purchasing power.

Two million workers would get an overdue raise. Most work for profit-making businesses. 175,000 minimum wage workers care for elderly and disabled Californians.

PROP. 210 REWARDS HARD WORK. TODAY, MINIMUM WAGE WORKERS EARN LESS THAN PEOPLE ON WELFARE.

The current minimum wage punishes hard work. Many minimum wage workers must supplement their low pay with food stamps and welfare. According to California Department of Social Services estimates, a $5.75/hour minimum wage would mean smaller welfare payments to tens of thousands of working poor. Taxpayers would save $21,000,000 in welfare costs, and millions more in food stamp reductions.

Work should pay better than welfare. Prop. 210 promotes a work ethic. With Prop. 210, 120,000 California household members will become less dependent on welfare.

CALIFORNIA'S ECONOMY WILL BENEFIT. CONSUMERS WILL HAVE MORE MONEY TO SPEND.

Minimum wage workers spend their paychecks on food, clothing and other basic necessities. Prop. 210 gives consumers more money to spend, boosting California's economy. Rising wages mean increased sales and profits. Thousands of California jobs were created after the last increase in 1988. Increasing the minimum wage is sound economic policy.

WHILE THE GOVERNOR, LEGISLATORS, AND CORPORATE EXECUTIVES HAVE ALL GOTTEN BIG PAY RAISES, THE MINIMUM WAGE HAS BEEN FROZEN.

Since 1988, corporate CEO pay is up 108%. Corporate profits are up 68%. Inflation is up 26%. But the California minimum wage has not increased.

Middle class and working people are falling behind. The lowest paid are hit the hardest. Prop. 210 is a modest raise for people who play by the rules and contribute to our economy. It's long overdue.

BECAUSE GOOD PAYING JOBS ARE HARDER TO FIND, IT'S MORE IMPORTANT THAN EVER THAT CALIFORNIA HAS A FAIR MINIMUM WAGE.

Corporate downsizing has thrown hundreds of thousands of California workers out of good paying jobs. Many discarded workers have taken low paying retail, fast food, and service sector jobs. Today, a living minimum wage is important to more and more workers.

Prop. 210 rebuilds a wage floor that collapsed. Prop. 210 doesn't even fully restore the value the minimum wage had in the 1970's. It will help two million California workers put food on their families' tables. People who work hard should not live in poverty.

LET'S PUT A POSITIVE VALUE ON HARD WORK. PLEASE VOTE YES ON PROPOSITION 210.

REV. KATHRYN COOPER-LEDESMA
President, California Council of Churches

DR. REGENE MITCHELL
President, Consumer Federation of California

HOWARD OWENS
Legislative Director, Congress of California Seniors

Rebuttal to Argument in Favor of Proposition 210

It sounds simple: Raise the minimum wage, reward hard work, and strike a blow against society's inequalities. It's an emotional argument that blurs the truth and makes people forget one important economic lesson: There's no such thing as a free lunch.

UNFORTUNATELY, PASSAGE OF PROPOSITION 210 WILL PUT PEOPLE OUT OF WORK AND *ONTO* WELFARE.

The likely federal increase in the minimum wage will hurt California small businesses, but Proposition 210 will add even MORE costs onto businesses, put MORE people out of work, and increase consumer prices EVEN MORE. Fortunately, there IS something you can do about Proposition 210.

The vast majority of the 22,000 members of the American Economic Association agree that increasing the minimum wage WILL INCREASE UNEMPLOYMENT among young, unskilled workers. This 35% hike in the minimum wage paid by businesses will be one of the biggest increases in California history. And, it will hit just when the state is recovering from a long recession.

PROPOSITION 210 WILL MEAN LAYOFFS, REDUCED HOURS AND LOST OPPORTUNITIES. Studies show minimum wage increases make it harder for people to get off welfare by making it tougher for low-skilled workers to get jobs. With more unemployed, more people will need taxpayer assistance and crime will increase.

There are better ways to help the working poor, but they're less politically attractive to the labor unions and politicians who are paying for Proposition 210.

Vote "NO" on Proposition 210.

PROFESSOR MILTON FRIEDMAN
Nobel Laureate in Economics

PROFESSOR WILLIAM R. ALLEN
Former President, Western Economic Association

PROFESSOR MICHAEL DARBY
Former Undersecretary for Economic Affairs, United States Department of Commerce

 Arguments printed on this page are the opinions of the authors and have not been checked for accuracy by any official agency.

Argument Against Proposition 210

Before you decide how to vote on Proposition 210, please consider our side. We aren't politicians or professors, and we're not corporate CEOs. We're small business owners. We struggle to make ends meet and, with other small business owners, are the backbone of the state's economy.

PUT SIMPLY, PROPOSITION 210 WILL PLACE ADDITIONAL BURDENS ON SMALL BUSINESSES WE CANNOT BEAR. Congress is already considering increasing the minimum wage. Now, labor unions want to raise California's even higher. *THAT'S GOING TO PUT SOME OF US OUT OF BUSINESS. MANY WILL HAVE TO LAY OFF WORKERS. OTHERS WILL CUT HOURS.* And still others will postpone hiring new employees at a time when California's unemployment rate is among the highest in the nation.

Who is going to pay for these wage increases? Small business owners like us. Folks like you will pay through higher prices. Young people, recent immigrants and former welfare recipients will pay, because *THERE WILL BE FEWER ENTRY LEVEL JOBS.*

Only five percent of the work force currently earns minimum wage—mostly teenagers with part-time jobs or young adults just starting out. *BUT FOR THOSE OF US SMALL BUSINESS OWNERS STRUGGLING TO SURVIVE, THESE FORCED WAGE INCREASES WILL BE A CRUSHING BLOW.*

Consider our plights:

- I'm Sheldon Grossman. I own a car wash in Long Beach that employs 20 people at minimum wage. *Proposition 210 will force me to increase their pay 35%, or $1.50 an hour. That's $88,000 more a year just in salary increases.* And that's just minimum wage employees. Others who have *earned* raises over time, will expect more, and increases in Social Security and workers' comp costs will be a further burden, too. We're talking about $150,000 a year. I can't afford that kind of increase.
- I'm Connie Trimble. I own a small family restaurant in Burbank. *I'll be forced to pass on these wage increases to my customers, many of whom are senior citizens on fixed incomes.* My minimum wage employees make good money in tips but I will be forced to give them a pay raise totalling 35%. I don't know if my business can survive that hit.
- I'm Bill Merwin. I own a family farm near Sacramento. All our employees earn more than the minimum wage, but any increase will push up our wage scale. We now hire *and* train employees, but, if Proposition 210 passes, we will only hire *trained* employees. Since I don't set the price of the food I grow, I can't pass on the extra costs to my customers. A big wage increase would be devastating to my family and many other small farmers.

Chances are your corner grocer, your favorite diner owner and the family farmer closest to you oppose Proposition 210, as does the Small Business Survival Committee, California Chamber of Commerce, and National Federation of Independent Business.

PLEASE THINK ABOUT US. AND THINK ABOUT OUR EMPLOYEES, WHO JUST NEED EXPERIENCE TO GET A CHANCE. PLEASE VOTE "NO" ON PROPOSITION 210.

SHELDON GROSSMAN
Owner, Bixby Knolls Car Wash, Long Beach

CONNIE TRIMBLE
Owner, Barron's Family Restaurant, Burbank

WILLIAM H. MERWIN
Owner, Hunn & Merwin & Merwin Farm, Yolo County

Rebuttal to Argument Against Proposition 210

"Most small businesses . . . pay more than the minimum wage. I hate to see small business portrayed as being on the bandwagon against a minimum wage increase."

Scott Hauge, Vice-President
125,000 member California Small Business Association

In fact, the biggest low-wage employers include billion-dollar fast food and retail chains, not small businesses.

Since 1916, opponents have cried "the sky is falling" every time the minimum wage was increased. Yet business keeps growing. Princeton economist David Card found California's employment actually rose after our 1988 minimum wage increase.

Since 1988, corporate CEO pay has more than doubled. Corporate profits have skyrocketed. But California's minimum wage has not increased even once.

Because of inflation, the minimum wage buys less now than at any time in the past 40 years. We're on the wrong track when hard work pays less than welfare. Proposition 210 rewards work by making it more profitable than welfare.

Congressional proposals are inadequate. The proposed federal minimum wage still leaves a California family of three $2,300 a year below the poverty line. Proposition 210 raises this family much closer to the poverty line. California's cost of living is higher than states like Mississippi. We need a higher minimum wage.

California has the lowest minimum wage on the West Coast. Oregon and Washington have higher state minimum wages, lower unemployment and lower child poverty rates than California.

Californians need a Living Wage.

League of Women Voters and California Labor Federation recommend YES ON PROPOSITION 210.

KENNETH ARROW
Nobel Prize Laureate in Economics, Stanford University

CLIFF WALDECK
President, California Small Business Owners Alliance

HON. HILDA SOLIS
Chair, California State Legislature Women's Caucus

Attorney-Client Fee Arrangements. Securities Fraud. Lawsuits. Initiative Statute.

Official Title and Summary Prepared by the Attorney General

ATTORNEY-CLIENT FEE ARRANGEMENTS. SECURITIES FRAUD. LAWSUITS. INITIATIVE STATUTE.

- Prohibits restrictions on attorney-client fee arrangements, except as allowed by laws existing on January 1, 1995.
- Prohibits deceptive conduct by any person in securities transactions resulting in loss to pension, retirement funds, savings. Imposes civil liability, including punitive damages, for losses.
- Authorizes class actions, derivative suits; adds presumption fraudulent acts affected market value of security.
- Prohibits indemnification of officers found liable for fraudulent acts by business entities, but may purchase insurance to cover liability.
- Declares measure conflicts with other ballot measures that restrict attorney fees or securities fraud actions.

Summary of Legislative Analyst's Estimate of Net State and Local Government Fiscal Impact:

- Potential increase in court-related costs to state and local governments of an unknown, but probably not significant, amount.
- Potential increase in revenue to the state of an unknown, but probably not significant, amount.

Analysis by the Legislative Analyst

PROPOSAL

Many Californians contribute to private and public pension and retirement funds that invest in securities (stocks and bonds). In addition, many Californians individually invest their retirement savings or other assets in such securities. To help protect investors, current law prohibits people from making false or misleading statements or omitting facts which (1) influence the purchase or sale of the security by others or (2) affect the price of the security. These illegal activities are known as securities fraud.

The measure makes various changes regarding fraud with respect particularly to retirement savings (as defined by the measure). It also would make it more difficult to change state laws concerning attorney-client fee agreements in all types of cases.

Prohibited Conduct. Current law regarding securities fraud applies to people *buying or selling* a security (such as a broker). For securities fraud regarding retirement savings, the measure broadens the law by applying it to *any person* involved in the buying or selling of securities (such as accountants or lawyers). (The measure exempts government officials from this provision.)

Liability Resulting From Prohibited Conduct. In many cases, the buying or selling of securities is done by retirement groups and plans that invest retirement savings for individuals. Because these groups or plans buy and sell securities, they are the parties who can sue for securities fraud. The individuals whose retirement savings are invested by these plans must rely on them for such lawsuits.

Under the measure, it would be easier for *individuals* to sue for securities fraud involving their retirement savings rather than having to rely on a retirement plan or group to initiate such lawsuits. This is because the measure makes anyone who commits securities fraud liable to *any person* whose retirement investments suffered a loss because of securities fraud.

Punitive Damages. Punitive damages are damages awarded by the court in addition to actual damages, in order to punish the wrongdoer. Under current law, any punitive damages awarded go to the winning party. Under this measure, any punitive damages awarded (less legal fees and expenses) in a retirement savings-related fraud suit would go to the state General Fund.

Fraud-on-the-Market Doctrine. Under current law, those who sue for securities fraud must prove that they relied on fraudulent information to purchase or sell the security and that the false information directly affected the value of their investment. Thus, under current law the burden of proof is placed on *those who sue* for securities fraud.

In securities fraud cases, this measure shifts the burden of proof to the *person accused* of fraud. It does this by applying a legal doctrine called "fraud on the market." Under this doctrine, it is presumed that the people who are suing relied on the fraudulent information and that this information affected the value of the investment.

Individual Liability for Fraud. Current law allows a business to pay for any legal actions taken against any executive (such as a director or chief executive officer) whose fraudulent actions are found to have caused a loss of money to investors. Under the measure, a business could no longer pay these costs. Instead, any executive of a business who is found liable for the fraudulent actions must pay these amounts. A business, however, could purchase insurance on behalf of these executives to cover such potential liability.

Attorneys' Fees. Under the measure, attorney fees for *any* legal matter (not just those for retirement savings-related cases) would be subject to the laws in effect on January 1, 1995. As a result, any changes to these state laws by the Legislature would require a vote of the electorate.

FISCAL EFFECT

Potential Court Costs. The measure would result in an increase in lawsuits against persons committing securities fraud. This, in turn, would increase court-related costs to state and local governments. These costs probably would not be significant.

Potential General Fund Revenue. The measure also could result in additional revenue to the state from the provision that allows the courts to assess punitive damages in a retirement savings-related fraud suit and deposit the monies in the state General Fund. As these damages would be decided on a case-by-case basis by the courts, it is difficult to estimate the impact of this provision. The annual revenue gain to the state, however, probably would not be significant.

For text of Proposition 211 see page 95

211 Attorney-Client Fee Arrangements. Securities Fraud. Lawsuits. Initiative Statute.

Argument in Favor of Proposition 211

Proposition 211:
Legal Rights for Senior Citizens.
30% of all fraud victims are over 65. Proposition 211 gives senior citizens stronger legal rights to take swindlers to court and get their money back.

Proposition 211:
Protection for Young Families.
More young families are trying to save for retirement because there is no guarantee Social Security will take care of them. Proposition 211 reduces the risk that they could lose their life savings.

Proposition 211:
Personal Responsibility for Corporate Executives.
Corporate executives can hide behind their corporate shield when they defraud investors. Proposition 211 holds them personally responsible for fraud they commit.

Proposition 211:
The "Yes" Argument.
According to the Federal Trade Commission, Americans are losing $1,000,000,000 (one billion dollars) a year to investment swindlers.

The Federal Deposit Insurance Corporation says that many banks don't even tell investors that money in mutual funds is *un*insured against fraud.

Congress gutted the law that allowed the victims of Charles Keating's fraud to recover most of their money. California's politicians refuse to even license individual stockbrokers—they don't check their business background before allowing them to do business here.

Proposition 211:
Stops Frivolous Lawsuits.
Big business argues that under Proposition 211 out of state lawyers will come here to file lawsuits.

That's not true! Under Proposition 211 only frauds in *California* cheating people out of their pension or retirement savings are punished. And Proposition 211 punishes frivolous lawsuits. Anyone who files a frivolous suit must pay the other side's legal fees.

Big business is using their typical scare tactic. They just don't want to be held responsible for their actions.

Retired Californians are sponsoring Proposition 211. Pension fund managers and law enforcement support it. And every Californian trying to save or invest for retirement should vote "Yes."

Proposition 211:
Securities Fraud and Retirement Fund Protection.
"In California, the rule for investors looking for a stockbroker is caveat emptor—let the buyer beware."
— Los Angeles Times

"The Securities and Exchange Commission is conducting a record 300 inside-trading investigations . . . In 1995, the SEC brought 45 inside-trading cases."
— USA Today

"A 1994 study by the National Center on Elder Abuse in Washington, D.C. says there were more than 29,000 cases of financial exploitation last year."
— Money Magazine

"Older Americans are the No. 1 target of investment con artists... The retirement nest eggs of Americans are in danger of being scrambled today by an alarming surge in investment schemes . . ."
— Investor Bulletins
North American Securities Administrators Association
(50 state securities regulators)

"Some Workers Find Retirement Nest Eggs Full of Strange Assets . . . Losses Can be Serious
"The extent of such dubious 'investing' is only now beginning to surface. But an ominous sign emerges in the Labor Department's records on 401 (k) and profit sharing plans: At plans smaller than $1 million, fully 17% of the employee money has been funneled into (bizarre) categories . . ."
— The Wall Street Journal
June 5, 1996

LOIS WELLINGTON
President, Congress of California Seniors

KENNETH E. WILSON
President, Retired Public Employees Association of California

RAMONA E. JACOBS
Victim, Charles Keating's Lincoln Savings & Loan Fraud

Rebuttal to Argument in Favor of Proposition 211

211 isn't about protecting us from fraud. 211 isn't about being able to recover legitimate losses. *We're already protected.*

211 doesn't stop frivolous lawsuits—*it encourages frivolous lawsuits.* 211 doesn't limit attorney fees—*it prohibits limits on fees.*

Here's what 211 is really about:

211 was written by and for securities lawyers.

211 allows these lawyers to file frivolous lawsuits in California—lawsuits outlawed in federal courts.

211 guarantees that lawyers can charge outrageous fees. 211 prohibits the Legislature from passing laws restricting lawyer fees.

211 is a hoax that benefits a few greedy lawyers, but hurts the rest of us:

DAMAGES PENSIONS, RETIREMENT AND FAMILY SAVINGS

211 allows "frivolous lawsuit" lawyers to "legally extort" hundreds of millions of dollars from companies in which Californians hold investments through pension funds, mutual funds and savings.

Californians lose hundreds of millions of dollars to these lawsuits which often cause drops in stock prices, further reducing savings.

DAMAGES MEDICAL RESEARCH

"211 jeopardizes crucial research into new treatments and cures for many life threatening diseases. It takes millions of dollars from research and sends it to the pocket books of a few wealthy securities lawyers."
— John Gorman, Treasurer
Alzheimer Aid Society of Northern California

EXEMPTS POLITICIANS

Instead of protecting us from "Orange County" abuses, 211 actually prohibits politicians from being held liable for their fraud and abuse (like Robert Citron, the Treasurer responsible for much of Orange County's $1.7 billion loss).

Seniors, families, taxpayers, small business and employees say "NO" on 211.

GORDON JONES
Director of Legislative Affairs, The Seniors Coalition

MARY GEORGE
Vice President, Hispanic Women's Council

STEVEN J. TEDESCO
President, San Jose Metropolitan Chamber of Commerce

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Attorney-Client Fee Arrangements. Securities Fraud. Lawsuits. Initiative Statute. 211

Argument Against Proposition 211

PROP. 211: A SPECIAL INTEREST MEASURE WE DON'T NEED

Californians currently have the same strong protections against investment and securities fraud as citizens in the other 49 states. We don't need 211.

Prop. 211 is *not* about protecting consumers or seniors. *It's about protecting the huge incomes that a handful of lawyers make* filing frivolous lawsuits against some of California's best businesses.

A "FRIVOLOUS LAWSUIT" LOOPHOLE

The only thing 211 protects is the ability of a few securities lawyers to evade federal law and file frivolous lawsuits in California—lawsuits that are outlawed under U.S. law.

Here's what others say about 211:

"This measure is not about protecting seniors, it's about protecting the ability of opportunistic lawyers to continue to make millions by filing frivolous lawsuits."

Oran McNeil, Member
The 60 Plus Association

"This initiative would curtail California's economic recovery. It's a job killer that will send California's best high-tech and bio-tech companies to other states."

Dan Lungren, California Attorney General
Republican

"Frivolous securities lawsuits are a serious problem for the high-tech and bio-tech industries. Creating good jobs and researching new cures for diseases are more important uses of these companies' time and money than responding to frivolous litigation. That's why we oppose Proposition 211."

The Democratic Leadership Council of California

TAXPAYERS, SENIORS AND EMPLOYEES OPPOSE 211

Californians from every walk of life, including Democrats, Republicans, seniors, consumers, taxpayers and employees say "NO" to Proposition 211. Here's why:

A JOB KILLER FOR CALIFORNIA

According to the Law and Economics Consulting Group (Emeryville, California), *159,000 JOBS COULD BE LOST OVER THE NEXT DECADE* under 211. Let's not send more jobs to other states!

The measure could *COST CALIFORNIA BUSINESSES OVER $1.3 BILLION A YEAR*—money that should go to investors and pensions or to create new jobs—not to a handful of lawyers.

HIGHER TAXES

California taxpayers will pay for all the judges, courtrooms and clerks to process these new frivolous lawsuits. According to the same study, these lawsuits could *COST TAXPAYERS UPWARDS OF $100 MILLION* in higher court costs over ten years.

Even worse, California could face up to *$5.1 billion in reduced state revenue* over the next decade because of 211. To make up the difference, taxpayers could expect *ENORMOUS TAX INCREASES* or severe reductions in funding to education, law enforcement and other vital programs.

SECURITIES LAWYERS BANKROLL CAMPAIGN

A few securities lawyers contributed millions of dollars to their special interest committee to put 211 on the ballot.

They are promoting 211 so they can file more frivolous lawsuits in California—*lawsuits where lawyers make millions— sometimes tens of thousands of dollars an hour.*

STOP FRIVOLOUS LAWSUITS

Legal reforms should stop these frivolous lawsuits which severely damage our best businesses and kill jobs. *INSTEAD, PROPOSITION 211 PROMISES MORE FRIVOLOUS LAWSUITS AND FEWER JOBS.*

Check the facts. Find out who's really pouring millions into 211. Then join with consumers, seniors, taxpayers and employees in voting *"NO"* on Proposition 211.

LARRY McCARTHY
President, California Taxpayers Association

MARTYN B. HOPPER
State Director, National Federation of Independent Business/California

KIRK WEST
President, California Chamber of Commerce

Rebuttal to the Argument Against Proposition 211

Fraud must be punished.

Not every crook wears a ski mask and carries a gun.

Today, too many white collar crooks get away. And the few that get caught usually serve "country club" jail time.

Worse, California law allows corporate executives who commit civil fraud to hide behind their "corporate shield". California doesn't even license individual stockbrokers.

Laws against white collar fraud should be as tough as the laws against any other kind of stealing.

Proposition 211 punishes white collar cheaters who "willfully, knowingly, or recklessly" defraud people out of their pension or retirement savings.

It takes away their "corporate shield" and holds them personally responsible for the frauds they've committed.

And Proposition 211 helps the victims get their money back—something very difficult for prosecutors to do!

The only corporate executives this law will hurt are the ones who break it!

Prosecutors throughout California are swamped. Budget cuts have reduced the resources prosecutors have to keep up with all the fraud cases.

Thousands of Californians are victimized every year. Proposition 211 gives fraud victims a powerful new legal weapon to make the guilty pay!

California should be heaven for retirees and hell for those who cheat them.

Vote "YES" on Proposition 211. Stop corporate fraud.

JOHN R. (JACK) QUATMAN
Senior Prosecutor, Fraud Division

JAMES KENNETH HAHN
Los Angeles City Attorney

Campaign Contributions and Spending Limits. Repeals Gift and Honoraria Limits. Restricts Lobbyists. Initiative Statute.

Official Title and Summary Prepared by the Attorney General

CAMPAIGN CONTRIBUTIONS AND SPENDING LIMITS. REPEALS GIFT AND HONORARIA LIMITS. RESTRICTS LOBBYISTS. INITIATIVE STATUTE.

- Repeals existing law limiting gifts and prohibiting honoraria received by public officials.
- Limits contributor's contributions per candidate per election to $200 for statewide offices, $100 for most other offices. Allows committees of small contributors 100 times this individual limit. Prohibits more than 25% of contributions from outside district. Limits total contributions by committees and individuals. Bans direct contributions from businesses and unions.
- Imposes spending limits.
- Limits time for fundraising.
- Prohibits tax deduction for lobbying expenses. Prohibits lobbyists from making or arranging contributions to those they influence.

Summary of Legislative Analyst's Estimate of Net State and Local Government Fiscal Impact:

- Adoption of this measure would result in costs to state and local governments for implementation and enforcement of new campaign finance limitations in the range of up to $4 million annually.
- The measure would result in unknown, but probably not significant, additional state and local election costs.
- The measure would result in additional tax revenues to the state of about $6 million annually due to the elimination of the tax deduction for lobbying expenses.

Analysis by the Legislative Analyst

BACKGROUND

Campaign Contribution and Spending Limits. Federal law limits the amount of money individuals and groups can contribute to a candidate and to the candidate's campaign committee for federal elective office. State law generally does not impose similar limits on state and local campaigns. However, some local governments in California have established such limits for local elective offices.

In addition, current state law contains no limits on the amounts of personal loans or personal funds candidates can use for their own elections. Also, there are no aggregate limits on what individuals and groups can contribute to all candidates for state and local elective offices. Furthermore, there are no prohibitions on lobbyists making, transmitting, or arranging campaign contributions. Finally, there are no limits on the amounts of money candidates or their campaign committees, or other groups in support of the candidate, can spend in any election.

Reporting Requirements. Both state and federal law require candidates for elective office to report contributions they receive and spend for their campaigns. In addition, state law requires that lobbyists register with the Secretary of State's office.

Lobbying Expenses. Under current state law, organizations and businesses may deduct from their income taxes expenses for lobbying public agencies.

Restrictions on Gifts, Honoraria, and Travel. Current state law contains restrictions on the amounts of gifts, honoraria (payments for speeches, articles, or attendance at meetings or gatherings), and travel payments that may be accepted by public officials.

Court Review. The specific provisions of this measure have not been reviewed by either state or federal courts. In California and other states, a number of provisions similar to those contained in this measure have been challenged in court and have been invalidated.

PROPOSAL

This measure makes a number of changes to current state law regarding campaign contributions and spending. Specifically, the measure:

- Limits the amount of campaign contributions that an individual or group can make to a candidate for state and local elective office and prohibits lobbyists from making contributions.
- Establishes both mandatory and voluntary campaign spending limits.
- Limits when campaign fund-raising may occur.
- Eliminates current restrictions on public officials receiving gifts and honoraria.
- Eliminates tax deductions for lobbying expenses.
- Establishes penalties for violations of the measure and increases penalties for existing campaign law violations.

Limits on Campaign Contributions

Limits on Contributions to a Single Candidate. The measure establishes limits on the amount of political campaign contributions that an individual, committee, and political party may make to a candidate for statewide office (such as the Governor), the state Legislature, and local elective office. Businesses, labor organizations, and nonprofit corporations would be prohibited from making contributions. This measure prohibits the transfer of campaign funds from one candidate to another. This measure does not set limits for any candidates for federal office. Figure 1 summarizes these limits.

Figure 1

Proposition 212
Campaign Contribution Limits

Contributor	Candidate for: Legislative and Local Elective Office	Statewide Office
Individual	$100	$200
Business, labor organization, and nonprofit corporation	Prohibited [a]	Prohibited [a]
Political party	$100	$200
"Citizen Contribution Committee" [b]	$10,000	$20,000
Lobbyist	Prohibited	Prohibited
Transfer from other candidate	Prohibited	Prohibited

[a] While these entities are prohibited from making campaign contributions, they may provide other campaign-related support.

[b] Defined by the measure as a committee with 25 or more members, none of whom contribute more than $25 to the committee in a calendar year, and is not controlled by any candidate.

Out-of-District Contribution Limits. The measure provides that at least 75 percent of a candidate's campaign contributions must come from individuals of voting age residing within the jurisdiction of the office sought by the candidate.

Limits on Contributions to All Candidates. The measure restricts the total amount an individual can contribute to all candidates. An individual is limited to making contributions totaling no more than $2,000 per year to all candidates, committees, and political parties. Of this amount, no more than $1,000 may be contributed to committees other than to political parties. Entities other than individuals are limited to contributions totaling no more than $10,000 per year to all state and local candidates, committees, and political parties. These limitations on contributions do not apply to Citizen Contribution Committees.

Other Limits. The measure limits the total amount of loans a candidate may make to his or her campaign. These limits are $25,000 for candidates for Governor and $10,000 for all other candidates. Officeholders and candidates are prohibited from soliciting or receiving contributions from, or arranged by, lobbyists.

Businesses, labor organizations, and nonprofit corporations are prohibited from making contributions, but they may:

- Spend unlimited amounts for internal communications with members, employees, or shareholders for purposes of supporting or opposing a candidate for elective office or a ballot measure.
- Create political action committees for the purpose of supporting a candidate for elective office or a ballot measure.
- Provide support to any Citizen Contribution Committee, if the committee receives contributions of up to $5,000 per year.
- Provide support for fund-raising, administration, and compliance for any committee (excluding committees in support of a candidate or political party committees).

Mandatory and Voluntary Spending Limits

The measure establishes mandatory campaign spending limits. In the past, the U.S. Supreme Court has ruled that mandatory spending limits in election campaigns violate the U.S. Constitution. The measure provides that if the mandatory limits are invalidated by the courts, the spending limits will become voluntary. The measure establishes spending limits in local government elections of 40 cents per resident for each office. The spending limits for individual candidates for state offices are shown in Figure 2.

Figure 2

Proposition 212
Mandatory/Voluntary
Campaign Spending Limits [a]

	Primary Election Limit	General Election Limit
State Assembly	$ 75,000	$ 150,000
State Senate	115,000	235,000
Statewide office (other than Governor) [b]	1,250,000	1,750,000
Governor	2,000,000	5,000,000

[a] Measure establishes mandatory limits, but provides that the limits will become voluntary if the mandatory limits are invalidated by the courts.

[b] Such as Lieutenant Governor, Attorney General, and State Treasurer.

Access to Ballot Pamphlets. If the voluntary limits go into effect, the measure requires that candidates who accept the spending limits be so identified in ballot pamphlets and on the ballot. These candidates also would be entitled to place a statement free-of-charge in the applicable state or local ballot pamphlet. Candidates who do not accept the spending limits would be so identified on the ballot. In addition, these candidates may also place a statement in the ballot pamphlet, but would have to pay the costs of printing, handling, and mailing the statement.

Restrictions on When Contributions May Be Accepted

This measure places restrictions on when campaign contributions may be accepted. For any elective office, no candidate may accept contributions more than nine months before any primary election. Fund-raising for all candidates must end on the date of the election and no contributions may be accepted more than 30 days after the election.

Other Provisions

Elimination of Restrictions on Candidate Honoraria, Gifts, and Travel. This measure repeals current law that prohibits elected officials from receiving honoraria and limits their receipt of gifts. Currently, elected officials cannot accept gifts valued at more than $280 from any single source. The measure also eliminates the restrictions on when elected officials can accept reimbursement for travel.

Elimination of Tax Deductions for Lobbying and Increases in Lobbyist Registration Fees. The measure eliminates all state income tax deductions for lobbying. The measure also increases the fee charged to register as a lobbyist with the Secretary of State. Any additional state revenues resulting from the elimination of this tax deduction and the increase in registration fees would be used to offset the costs of implementing and enforcing the measure.

Penalties and Enforcement. This measure increases penalties for violations of campaign law. In addition, any person who has violated campaign laws three times would be subject to removal from office and subject to a permanent ban from (1) holding any state or local office in the future or (2) registering as a lobbyist. Enforcement of the measure's provisions can either be through governmental agencies, such as the Fair Political Practices Commission (FPPC), or registered voters, who would be allowed to sue those candidates who violate any provisions of the measure.

Disclosure of Major Donors. Any campaign advertisement for a candidate or ballot measure must disclose the names of the donors making contributions above specified levels.

Relationship to Other Measures

This measure provides that if both this measure and another measure or measures relating to campaign finance reform on this ballot are approved by the voters, the measures will be considered to be in conflict. If this measure is approved with the most votes, then this measure will take effect in its entirety and none of the provisions of the other measure or measures will take effect. If the other measure or measures are approved with the most votes, the provisions of this measure that are not in conflict will take effect.

FISCAL EFFECT

This measure would result in additional costs and revenues to the state and local governments.

Costs. The measure would result in additional costs to the state and local governments for implementation and enforcement of its provisions. Based on information provided by the FPPC and the Secretary of State, we estimate that the costs would be up to $4 million annually. To offset the FPPC's enforcement costs, the measure includes an annual General Fund appropriation, based on a formula, which in 1996–97 would be approximately $570,000. The measure provides that the annual appropriation be adjusted in future years for inflation.

In addition, the measure would result in additional state and local election costs to provide additional information on candidates in voter pamphlets. These costs are unknown, but are probably not significant.

Revenues. Elimination of tax deductions for lobbying expenses would result in additional tax revenues to the state of about $6 million annually.

For text of Proposition 212 see page 96

212 Campaign Contributions and Spending Limits. Repeals Gift and Honoraria Limits. Restricts Lobbyists. Initiative Statute.

Argument in Favor of Proposition 212

Are you tired of politicians who talk so much but do so little about improving schools, cleaning up the environment, and making our streets safe?

Too many politicians say one thing, then do something else. Why? Because they serve the special interests and people who give them big campaign contributions, not the voters back home in their district.

PROPOSITION 212 WILL BREAK SPECIAL INTEREST CONTROL

Prop. 212 is the only initiative on the ballot that effectively breaks the special interest stranglehold on government. Another well-intentioned measure, Prop. 208, doesn't take the tough steps necessary to get the job done.

PROPOSITION 212 MAKES POLITICIANS ACCOUNTABLE TO ALL VOTERS, NOT SPECIAL INTERESTS

Prop. 212 requires politicians to raise at least 75% of their campaign funds *inside their district.* Prop. 208 has no such limit, allowing up to 100% of money from outsiders.

Prop. 212 bans money from corporations and unions. Prop. 208 allows tobacco companies, insurance companies, and other corporations to each contribute a total of $25,000 to state candidates, and unlimited total contributions to local candidates.

Prop. 212 bans corporate tax deductions for lobbying, saving taxpayers money. Prop. 208 allows corporations to keep this special tax break.

PROPOSITION 212 IMPOSES TOUGH LIMITS ON CAMPAIGN CONTRIBUTIONS AND SPENDING

Prop. 212 prohibits politicians from taking contributions over $100 from wealthy individuals ($200 for the Governor's race and other statewide elections). Prop. 208 allows five times more: $1,000 for statewide candidates, $500 for legislators.

Prop. 212 encourages average Californians who contribute $25 or less to band together, allowing them to make larger joint contributions to candidates and thereby compete with the powerful special interests. Prop. 208 discourages this, leaving politicians to raise funds from donors who can write $500 or $1,000 checks.

Prop. 212 sets tough, low, mandatory limits on campaign spending to stop rich candidates trying to buy their way into public office. Prop. 208 only offers much higher, *voluntary* limits.

PROPOSITION 212 IS TOUGH. PROPOSITION 208 IS A HALFWAY MEASURE

California's state legislators raise an average of 8 out of 10 campaign dollars from outside the districts they represent. Why let this continue?

Why give corporations tax breaks for lobbying for their special interests?

Why continue allowing 97% of the money donated to California politicians to come in amounts of more than $100 from the wealthiest 1% of individuals, corporations, and PACs?

Why expect politicians to *voluntarily* limit campaign spending? They'll just continue the flood of negative TV ads and junk mail.

Only Prop. 212 puts a stop to all this. It's a no-nonsense initiative written by citizens fed up with business as usual. 208 is a well-intentioned halfway measure that won't work.

VOTE YES ON PROPOSITION 212

Only Prop. 212 strictly limits out-of-district contributions. It bans corporate and union contributions. It bans tax breaks for corporate lobbying. It sets $100 contribution limits and low, mandatory spending limits.

Send a tough message to the politicians and special interests. Return our state government to its rightful owners—the citizens of California.

WENDY WENDLANDT
Associate Director, California Public Interest Research Group, CALPIRG

DON VIAL
Former Commissioner, California Fair Political Practices Commission

ROBERT BENSON
Professor of Law, Loyola Law School

Rebuttal to Argument in Favor of Proposition 212

- *PROP. 212: CONSUMER FRAUD, NOT CAMPAIGN REFORM*

Prop. 212's sponsors shamelessly fail to disclose to the voters what it really does: *WIPES OUT* California's anti-corruption laws!

- *PROP. 212 LEGALIZES UNLIMITED CASH GIFTS TO ELECTED OFFICIALS!*

This irresponsible measure takes us back to the days of legalized bribery and circumvents campaign contribution restrictions by allowing special interests to give unlimited cash payments and gifts directly to elected officials and candidates.

This provision alone is enough to demonstrate that Prop. 212's "reform" claims are tantamount to *CONSUMER FRAUD.*

But there's more.

- *PROP. 212'S HUNDRED-FOLD SPECIAL-INTEREST ADVANTAGE*

Prop. 212 contains a special-interest loophole which allows political donor committees to give candidates 100 TIMES what anyone else can give! That's a *hundred-fold advantage!*

- *FOOLISHLY UNCONSTITUTIONAL*

Furthermore, its alleged "tough" provisions are pure rhetoric. Both in-district contribution and mandatory spending limits have already been ruled unconstitutional so they will be *THROWN OUT* by the Courts and *NEVER BE IMPLEMENTED.* Meaningless gestures, empty words: the only thing tough about Prop. 212 is its "talk."

- *PROP. 212'S HIDDEN POISON PILL*

Finally, the real purpose of Prop. 212: to kill the *GENUINE* reform measure on the ballot, Prop. 208, sponsored by the League of Women Voters, AARP, UWSA and Common Cause. Prop. 212 contains a poison pill clause designed to *NULLIFY* all other measures.

Don't be fooled. If Prop. 212's sponsors had honestly disclosed what it really does, it wouldn't even be on the ballot.

PLEASE VOTE NO ON PROP. 212.

JACQUELINE ANTEE
State President, American Association of Retired Persons

FRAN PACKARD
President, League of Women Voters of California

MICHAEL GUNN, M.D.
Chair, California Campaign Finance Reform Task Force United We Stand America

Campaign Contributions and Spending Limits. Repeals Gift and Honoraria Limits. Restricts Lobbyists. Initiative Statute.

212

Argument Against Proposition 212

If an initiative ever promised voters one thing but would deliver the *OPPOSITE,* Proposition 212 is it. If voters want to clean up politics and stop corruption, we urge you to vote NO on this extremely deceptive measure.

Prop. 212 would actually *increase, NOT decrease,* the power of special-interest money in state and local government! Here's how:

#1 PROP. 212 WIPES OUT OUR ETHICS IN GOVERNMENT ACT, THE *CORNERSTONE* OF CALIFORNIA'S *ANTI-CORRUPTION LAWS!*

This stringent anti-bribery law was enacted in the wake of the FBI corruption sting that sent five lawmakers to prison for selling their votes.

Prop. 212 frees elected officials and politicians from these ethics laws, and once again allows special interests to shower them with:

- UNLIMITED CASH PAYMENTS (e.g. "speaking fees" for luncheons)
- UNLIMITED PERSONAL GIFTS
- UNLIMITED FREE TRAVEL

Polluters, tobacco companies, or anyone else seeking government favors would no longer be legally prohibited from giving expensive gifts and lavish free travel, or depositing cash payments into our elected officials' pockets!

Prop. 212 brings back a form of legalized bribery voters already outlawed. By allowing *personal* payments to government officials, Prop. 212 allows special interests to get around *campaign* contribution reform laws entirely.

#2 PROP. 212 ALSO CONTAINS A HUGE *SPECIAL-INTEREST LOOPHOLE* WHICH ALLOWS POLITICAL DONOR COMMITTEES TO GIVE CANDIDATES *ONE HUNDRED TIMES* WHAT ANYONE ELSE CAN CONTRIBUTE!

That's a *hundred-fold advantage for special interests over regular people,* hardly the way to get big money influence out of politics!

- A Common Cause analysis found that most of the state's top political givers could use this loophole to continue pumping millions of dollars into political campaigns.
- This may explain why the state's #1 special-interest contributor supports Prop. 212.

SO WHILE PROP. 212 CLAIMS TO BE "TOUGH" IT ACTUALLY DOES FAR MORE *HARM* THAN *GOOD.* It is fatally flawed, fraught with loopholes, and unworkable.

Its alleged "get tough" provisions have been ruled UNCONSTITUTIONAL, so they will be thrown out by the Courts and never go into effect.

But don't despair: fortunately, voters have a golden opportunity to enact genuine campaign reform. Prop. 208 endorsed by the League of Women Voters, American Association of Retired Persons (AARP)—California, American Lung Association, and Common Cause, is a solid, workable solution.

These two measures are incompatible; voting for both doesn't work. If voters want a campaign finance reform law that REDUCES rather than INCREASES the power of corrupting special-interest money in Sacramento and local government, there is only one option:

VOTE YES ON 208 AND NO ON 212.

Prop. 212 is long on rhetoric but fails to deliver reform. It creates *BIGGER PROBLEMS* rather than *SOLUTIONS.* It is not only illogical, it is *dangerous.*

Prop. 212 would not be on the ballot if its sponsor had leveled with voters and honestly disclosed what it really does:

- *repeals* ETHICS IN GOVERNMENT LAWS;
- *violates* THE CONSTITUTION;
- *gives* SPECIAL INTERESTS A 100-FOLD ADVANTAGE

Please join us in voting No on Proposition 212.

FRAN PACKARD
President, League of Women Voters of California

JACQUELINE ANTEE
State President, American Association of Retired Persons

TONY MILLER
Executive Director, Californians for Political Reform, A Committee Sponsored by League of Women Voters of California, American Association of Retired Persons—California (AARP), Common Cause and United We Stand America

Rebuttal to Argument Against Proposition 212

The statement opposing Prop. 212 is long on mudslinging, short on facts.

We encourage you to carefully read Props. 212 and 208. You'll confirm that 212 cracks down hard on special interests and self-interested politicians. 208 doesn't.

Please read the non-partisan summaries and official fiscal impact analysis in this Ballot Pamphlet. You'll confirm that 212 saves taxpayers $2 million annually; 208 costs $4 million.

The opposition statement misses the point of 212. They don't say one word about 212's real provisions:

- 212 sets strict limits on campaign contributions from outside a politicians district—25% maximum. 208 has no limits.
- 212 bans contributions from corporations and unions. 208 doesn't.
- 212 bans corporate tax deductions for lobbying. 208 doesn't.
- 212 limits contributions by individuals and PACs to $100 ($200 for statewide offices, $600 to political parties). Prop. 208 allows $500, $1,000, and $5,000 contributions.

None of these provisions in 212 has been found unconstitutional by the Supreme Court.

Nor does Prop. 212 legalize bribery. This claim is ridiculous. 212's sponsors are fighting for tougher ethics laws.

Nor does Prop. 212 help special interests. Critics don't mention that the only contributor committee allowed to give 100 times the low $100 contribution limit is a committee formed and supported solely by people giving a maximum of $25! This helps only citizens able to afford a small donation, not big moneyed interests or politicians.

We favor the tougher initiative that scares special interests the most. Vote Yes on 212.

JERRY BROWN
Governor 1975–1983

ED MASCHKE
Executive Director of the California Public Interest Research Group (CALPIRG)

DANIEL A. TERRY
President, California Professional Firefighters

Limitation on Recovery to Felons, Uninsured Motorists, Drunk Drivers. Initiative Statute.

Official Title and Summary Prepared by the Attorney General

LIMITATION ON RECOVERY TO FELONS, UNINSURED MOTORISTS, DRUNK DRIVERS. INITIATIVE STATUTE.

- Denies all recovery of damages to a convicted felon whose injuries were proximately caused during the commission of the felony or immediate flight therefrom.
- Denies recovery for noneconomic damages (e.g., pain, suffering, disfigurement) to drunk drivers, if subsequently convicted, and to uninsured motorists who were injured while operating a vehicle.
- Provides exception when an uninsured motorist is injured by a subsequently convicted drunk driver. With this one exception, provides that insurer is not liable for noneconomic damages.

Summary of Legislative Analyst's Estimate of Net State and Local Government Fiscal Impact:

- Probably minor annual savings in state and local government court-related costs.
- Reduction in insurance tax revenue to the state of probably less than $5 million annually.

Analysis by the Legislative Analyst

PROPOSAL

This measure would limit the ability of certain people to sue to recover losses suffered in accidents.

Limits on Uninsured Motorists and Drunk Drivers

Under existing law, someone who has suffered an injury in a car accident may sue the person, business, or government at fault for the injury in order to recover related losses. These losses can include both *economic* losses (such as lost wages, medical expenses, and property damage) and *noneconomic* losses (such as pain and suffering).

This measure would prohibit the recovery of *noneconomic* losses in certain car accidents. Specifically, an uninsured driver or a driver subsequently convicted of driving under the influence of alcohol or drugs ("drunk drivers") at the time of an accident could not sue someone at fault for the accident for noneconomic losses. (These drivers could still sue for economic losses.) If, however, an uninsured motorist is injured by a drunk driver in an accident, the uninsured motorist could still sue to recover noneconomic losses from the drunk driver.

Limits on Convicted Felons

Currently, in certain cases a person who is injured while breaking the law may sue on the basis of another person's negligence to recover any losses resulting from the injury. For example, a person convicted of a robbery who was injured because he or she slipped and fell while fleeing the scene of the crime can sue to recover losses resulting from the injury.

This measure prohibits a person convicted of a felony from suing to recover any losses suffered while committing the crime or fleeing from the crime scene *if* these losses resulted from another person's negligence. Convicted felons, however, would still be able to sue to recover losses for some injuries suffered while committing or fleeing a crime—for instance those resulting from the use of "excessive force" during an arrest.

FISCAL EFFECT

Restricting the ability of people to sue for injury losses in the above situations would reduce the number of lawsuits handled by the courts. This would reduce annual court-related costs to state and local governments by an unknown but probably minor amount. These restrictions would also result in fewer lawsuits filed against state and local governments. Thus, there would be an unknown savings to state and local governments as a result of avoiding these lawsuits.

In addition, the restrictions placed on uninsured motorists and drunk drivers could result in somewhat lower costs, or "premiums," for auto insurance. Under current law, insurance companies doing business in California pay a tax of 2.35 percent of "gross premiums." This tax is called the gross premiums tax and its revenues are deposited in the state's General Fund. Any reduction in insurance premiums would also reduce gross premiums tax revenue to the state. We estimate that any revenue loss would probably be less than $5 million annually.

For text of Proposition 213 see page 102

213 Limitation on Recovery to Felons, Uninsured Motorists, Drunk Drivers. Initiative Statute.

Argument in Favor of Proposition 213

PROPOSITION 213 WILL FIX A SYSTEM THAT REWARDS PEOPLE WHO BREAK THE LAW.

It's *AGAINST THE LAW TO DRIVE UNDER THE INFLUENCE OF ALCOHOL OR DRUGS* in California. In most cases it's also against the law to drive without insurance. Unfortunately, thousands of people *ignore these laws and get rewarded for it.* Drunk drivers and uninsured motorists can sue law-abiding citizens for huge monetary awards in addition to being compensated for medical and other expenses.

These huge awards cost Californians who play by the rules and obey the law $327 million every year! That's not fair!

Proposition 213 will prevent drunk drivers, convicted felons and uninsured motorists from collecting these huge monetary awards, while still protecting their right to be compensated for medical and out-of-pocket expenses. That *is* fair.

Further, if Proposition 213 becomes law, convicted felons would be prohibited from collecting any damages if they're accidentally injured while fleeing from their crime.

PROPOSITION 213 SAYS PEOPLE WHO BREAK THE LAW SHOULD NOT BE REWARDED, WHILE LAW ABIDING CITIZENS PICK UP THE TAB.

Law-abiding citizens already pay higher insurance premiums to cover uninsured motorists. Law-abiding citizens should *not* be punished for living responsibly! *The system needs to be fixed. Illegal behavior shouldn't be rewarded. People who break the law must be held accountable for their actions.*

PROPOSITION 213 SAYS DRUNK DRIVERS WHO INJURE AND EVEN KILL PEOPLE SHOULD NOT BE REWARDED.

Drunk drivers in California cost all of us in terms of lost lives, serious injuries to family members and friends and higher insurance premiums.

- In 1994, 1,488 people were killed in crashes caused by drunk drivers.
- 39,437 people were injured in collisions involving drunk drivers during 1994.
- These victims and their families shouldn't be forced to suffer a second time through huge lawsuits.
- Proposition 213 will stop drunk drivers from being rewarded for breaking the law.

PROPOSITION 213 SAYS CONVICTED FELONS SHOULD NOT BE ALLOWED TO PROFIT FROM THEIR CRIMES.

- *Proposition 213 takes the "profit" out of crime by* closing a legal loophole that allows convicted felons to sue law-abiding citizens, businesses and governments to pay for "accidental injuries" incurred while running from their crime.

PROPOSITION 213 SAYS NO TO UNINSURED DRIVERS BY SAYING NO TO HUGE MONETARY AWARDS FOR "PAIN AND SUFFERING!"

- On average, nearly 30% of all drivers on the road in California are uninsured.
- In some parts of California, the percent of uninsured drivers is as high as 93%.
- Proposition 213 will stop uninsured motorists from being rewarded for breaking the law, while still covering medical and out-of-pocket expenses.

JOIN THE CALIFORNIA ASSOCIATION OF HIGHWAY PATROLMEN, DORIS TATE CRIME VICTIMS BUREAU, THE CALIFORNIA PEACE OFFICERS' ASSOCIATION, PEACE OFFICERS RESEARCH ASSOCIATION OF CALIFORNIA, CALIFORNIA POLICE CHIEFS' ASSOCIATION, THE ASSOCIATION FOR CALIFORNIA TORT REFORM, AND MANY OTHERS WHO SUPPORT THE PERSONAL RESPONSIBILITY ACT OF 1996.

- *STOP LAWBREAKERS FROM PROFITING FROM THEIR CRIMES.*
- *VOTE YES FOR PERSONAL RESPONSIBILITY.*
- *VOTE YES ON PROPOSITION 213.*

LINDA OXENREIDER
California President, Mothers Against Drunk Driving (MADD)

CHUCK QUACKENBUSH
California Insurance Commissioner

D. O. "SPIKE" HELMICK
California Highway Patrol Commissioner

Rebuttal to Argument in Favor of Proposition 213

Political give and take.

Insurance companies gave over $1 million to Chuck Quackenbush's political campaign for Insurance Commissioner.

Now, Insurance Commissioner Chuck Quackenbush's initiative allows insurance companies to take $327 million more every year out of our pockets.

Here is a partial list of the political money Chuck Quackenbush has taken from the Insurance Lobby for his Insurance Commissioner campaign:

Association of California Insurance Companies	$335,500
CA Casualty Management	$75,000
Zenith Insurance Co.	$63,000
CA Life Underwriters PAC	$50,100
TIG Insurance	$52,500
Alfa Mutual Insurance	$40,000
Arrowhead General Insurance Agency	$30,000
Surety Company of the Pacific	$28,000
Fremont Compensation Insurance	$65,500
Liberty Mutual	$25,000
Pacific Employers Insurance	$25,000
California Casualty Indemnity Exchange	$25,000
Zenith-Calfarm Inc.	$25,000
Kramer-Wilson Company Insurance	$17,500
Farmers Insurance Group of Companies	$18,950
Western Pioneer Insurance	$13,500
Fireman's Fund Insurance	$12,500
National Insurance Group	$10,500
Argonaut Insurance	$10,000
Progressive Casualty	$11,000
Transamerica	$20,000
Farmers Group Inc.	$9,000
CA Indemnity Insurance	$9,500
Government Employees Insurance Company	$11,500
The Pacific Rim Assurance	$8,500
Travelers PAC	$8,500
Insco Insurance Services	$25,000
CNA Financial	$7,000
Farmers Employees and Agents PAC	$27,877
Amwest Insurance Group	$9,500
Chubb-Pacific Indemnity	$6,000
Financial Pacific Insurance	$6,000
Fireman's Fund	$6,500
Interline Insurance Services	$6,000
Alliance of American Insurance Co.	$5,500
Independent Insurance Agents	$5,000
Nationwide Mutual Insurance	$5,000
Pacific Pioneer Insurance	$5,000
Property Managers Insurance Service	$10,000
Safeco Insurance	$5,000
Scottsdale Insurance	$5,000
Zurich Insurance	$5,000
Fidelity National Title Insurance	$7,500
The Zenith	$15,000

Vote "No" on Proposition 213. It's "No-Fault" for Reckless Drivers.

KEN McELDOWNEY
Executive Director, Consumer Action

INA DeLONG
Executive Director, United Policyholders

ROY ULRICH
Campaign Finance Reform Advocate

 Arguments printed on this page are the opinions of the authors and have not been checked for accuracy by any official agency.

Limitation on Recovery to Felons, Uninsured Motorists, Drunk Drivers. Initiative Statute. 213

Argument Against Proposition 213

SAY "NO" TO NO-FAULT FOR RECKLESS DRIVERS . . .
VOTE "NO" ON PROPOSITION 213

In March, ⅔ of California's voters said "NO" to Proposition 200—No-Fault auto insurance. We don't want a law that allows reckless drivers to avoid responsibility for their actions.

But Proposition 213 says that if a reckless driver who can afford insurance hits an innocent person who cannot . . . the reckless driver gets off without paying for all the injuries and damage they've done.

That's wrong.

The high cost of insurance makes it impossible for many poor and working people to buy insurance. If insurance companies won't sell affordable insurance, it is completely unfair to deny people full compensation for a car accident that is not even their fault.

YOU CAN SAY "NO" TO FELONS AND STILL . . .
VOTE "NO" ON PROPOSITION 213

Courts won't allow convicted felons to get damages for injuries they cause. So why are "felons" included in the title of Proposition 213?

The insurance companies pushing No-Fault want to divert your attention from their real agenda: boosting their profits to excessive levels.

Insurance companies make money anytime a reckless driver they insure is not held at fault.

The insurance companies couldn't get us to swallow No-Fault in one big gulp, so they're trying to feed it to us in little bites.

YOU CAN SAY "NO" TO DRUNK DRIVERS AND STILL . . .
VOTE "NO" ON PROPOSITION 213

California laws already say drunk drivers can't recover damages if they cause an accident. So why are they included in the title of Proposition 213?

The insurance companies have failed twice to get No-Fault insurance started in California. In Proposition 213 they are hiding the No-Fault idea behind wild talk about felons and drunk drivers.

NO MONEY-BACK GUARANTEE . . .
VOTE "NO" ON PROPOSITION 213

The No-Faulters argue that Proposition 213 will save Californians $323 million per year.

We've heard that line before.

There is nothing in Proposition 213 that says Californians will see their insurance rates go down. In No-Fault states, auto insurance premiums have increased an average of 40% in recent years.

No insurance rate reductions. No savings for consumers. The only people who benefit from this No-Fault scheme are reckless drivers . . . and the insurance companies who paid to put it on the ballot.

Insurance companies win, you lose.

SAY "NO" TO RECKLESS DRIVER NO-FAULT . . .
VOTE "NO" ON PROPOSITION 213.

HARVEY ROSENFIELD
Proposition 103 Enforcement Project

KEN McELDOWNEY
Executive Director, Consumer Action

INA DeLONG
Executive Director, United Policyholders

Rebuttal to Argument Against Proposition 213

PROPOSITION 213 STOPS REWARDING DANGEROUS FELONS

California law allows felons convicted of resisting a peace officer *and causing serious injury or death to the peace officer to sue* a city, county or anyone else who gets in their way and accidentally injures the felon fleeing from that crime. The same goes for crimes such as carjacking, "drive-by" shooting resulting in murder, multiple hate crimes and many others. *Proposition 213 stops rewarding criminal behavior.*

PROPOSITION 213 REFORMS AN UNFAIR SYSTEM THAT REWARDS LAWBREAKERS AND PUNISHES THOSE WHO PLAY BY THE RULES

Under Proposition 213, every driver involved in an accident could recover their medical and out-of-pocket expenses. Proposition 213 says "NO" to additional big money awards that *drunk drivers, uninsured motorists and their attorneys go after when these lawbreakers are in an accident with an insured driver—even if they also cause the accident!*

PROPOSITION 213 TAKES AWAY TRIAL LAWYERS' INCENTIVE TO SUE FOR OUTRAGEOUS AWARDS TO LINE THEIR OWN POCKETS

One-third of every dollar awarded for "pain and suffering" goes to attorneys, *and they want to ensure the most lucrative of all injury awards isn't taken from them.*

PROPOSITION 213 BENEFITS CONSUMERS BY MAKING INSURANCE MORE AFFORDABLE FOR EVERYONE

Law-abiding drivers pay additional premiums to protect themselves from uninsured drivers. Eliminating huge monetary awards for irresponsible drivers will save $327 million each year!

- *VOTE YES FOR PERSONAL RESPONSIBILITY.*
- *VOTE YES FOR CRITICAL REFORMS.*
- *VOTE YES FOR PROPOSITION 213.*

RONALD E. LOWENBERG
President, California Police Chiefs' Association

JAN MILLER
Chairman, Doris Tate Crime Victims Bureau

STEVEN H. CRAIG
President, Peace Officers Research Association of California

Health Care. Consumer Protection. Initiative Statute.

Official Title and Summary Prepared by the Attorney General

HEALTH CARE. CONSUMER PROTECTION. INITIATIVE STATUTE.

- Prohibits health care businesses from: discouraging health care professionals from informing patients or advocating for treatment; offering incentives for withholding care; refusing services recommended by licensed caregiver without examination by business's own professional.
- Requires health care businesses to: make tax returns and other financial information public; disclose certain financial information to consumers including administrative costs; establish criteria for authorizing or denying payment for care; provide for minimum safe and adequate staffing of health care facilities.
- Authorizes public/private enforcement actions. Provides penalties for repeated violations. Defines "health insurer."

Summary of Legislative Analyst's Estimate of Net State and Local Government Fiscal Impact:

- Increased state and local government costs for existing health care programs and benefits, probably in the range of tens of millions to hundreds of millions of dollars annually, depending on several factors.

BACKGROUND

Health Care Spending

Annual spending on health care in California totals more than $100 billion. About two-thirds of this cost is covered by various forms of health insurance, with the remainder paid by other sources.

Roughly 80 percent of all Californians are covered by health insurance. Specifically:

- About half receive health insurance through their employer or the employer of a family member.
- Roughly 20 percent are covered by two major government-funded health insurance programs: the federal Medicare Program, primarily serving persons age 65 or older, and the Medi-Cal Program, jointly funded by the federal and state governments, serving eligible low-income persons.
- About 10 percent of Californians directly purchase health insurance.

Until recently, spending on health care had been growing much faster than inflation and population changes. During the 1980s, for example, average health care spending in the United States grew by almost 11 percent annually after adjusting for inflation and population. Since 1990, however, this rate of growth has slowed to about 4 percent annually.

Health Maintenance Organizations

In part, this slower growth has been due to efforts by employers and government to control their health insurance costs. One way they have attempted to hold down costs is to contract with health maintenance organizations (HMOs), which provide health services through their own doctors and hospitals or through contracts with physicians and hospitals. About one-third of Californians belong to HMOs. Most of these HMO members are covered under employee health plans, but many persons covered by Medicare or Medi-Cal also receive their health care through HMOs.

Generally, health coverage provided by an HMO is less expensive than comparable health insurance coverage provided on a "fee-for-service" basis. Health Maintenance Organizations use several methods to control costs, such as "capitation" payments, other financial incentives, and utilization review.

Capitation and Other Financial Incentives. Under the traditional fee-for-service approach, doctors and hospitals charge fees based on the specific service provided to a patient. By contrast, HMOs generally use capitation to pay doctors. Under this approach, doctors receive a fixed payment for each HMO member regardless of the amount of service provided to the member. Capitation gives doctors a financial incentive to use cost-effective types of care.

In addition to capitation, HMOs use other financial incentives to control health care costs. The federal government, however, limits the types of financial incentives that may be used by HMOs when serving Medicare or Medi-Cal recipients. Specifically, federal law prohibits any financial incentives to doctors that could act to reduce medically necessary care to *individual* patients, such as a bonus payment for each patient that is not hospitalized during the year. However, federal law does allow "risk pools" and other types of profit-sharing arrangements that enable doctors to benefit from controlling costs for *groups* of patients.

Utilization Review. HMOs—as well as the state's Medi-Cal program and insurers using the fee-for-service approach—also attempt to contain costs by using "utilization review" procedures. Under these procedures, health plans will not pay for certain types of expensive or unusual treatments unless they have approved the treatment in advance.

Controlling Hospital Costs

Health maintenance organizations also control their costs by reducing their use of hospitals and encouraging more treatment in doctors' offices and clinics. This trend has contributed to an excess of hospital beds.

On average, about half of the hospital beds in California were unused in 1994. As a result, some hospitals have downsized, merged, or closed; and many hospitals are seeking ways to reduce costs in order to compete for business more effectively. Since staffing is a major cost, hospital cost control efforts often focus on reducing staff and using less expensive personnel in place of more expensive personnel where possible (using nurses' aides rather than nurses, for example).

Regulation of Health Care Facilities

Licensing of Facilities. The Department of Health Services (DHS) licenses many types of health facilities in California, such as hospitals and nursing homes, and has general authority to set staffing standards for those facilities. Clinics that are owned and operated directly by doctors, however, are not licensed.

Staffing Standards. State regulations generally require hospitals to keep staffing records and to base their staffing levels for nurses on an assessment of patient needs. Hospitals are not required to have a specified number of nurses per patient, except in intensive care units. State law requires nursing homes to have at least one registered nurse per shift and sets minimum staffing standards for nurses and nursing assistants per patient.

The DHS is revising its current hospital staffing regulations to cover all departments within each facility. Additionally, the pending regulations require hospitals to establish their staffing needs using a system that more specifically takes into account the condition of each patient. The DHS also enforces federal requirements that health facilities serving Medicare or Medi-Cal patients must have enough staff to provide adequate care.

Regulation of Health Plans and Health Insurance

The state Department of Corporations regulates the financial and business operations of health plans, including HMOs, in California. The Department of Insurance regulates companies that sell health insurance but do not provide health care themselves, including workers' compensation insurers.

PROPOSAL

This measure establishes additional requirements for the operation of health care businesses. The measure:

- Prohibits health care businesses from denying recommended care without a physical examination.
- Requires the state to set more comprehensive staffing standards for more types of health care facilities.
- Prohibits health care businesses from using financial incentives to withhold medically appropriate care.
- Increases protections for certain health care employees and contractors.
- Requires health care businesses to make various types of information available to the public.

The measure's provisions would affect both public and private health facilities. However, it is not clear whether the state's Medi-Cal Program would be considered a "health care business" subject to the requirements of this measure.

FISCAL EFFECT

The fiscal effect of this measure is subject to a great deal of uncertainty. The health care industry is large, complex, and undergoing rapid change, making it difficult to estimate the effect of new requirements on the overall health care marketplace. Furthermore, several of the measure's provisions could have widely varying fiscal effects, depending on how they are implemented or interpreted by the courts.

Effect of the Measure on Health Care Costs Generally

Changes in health care costs have an impact on the state and local governments because of their role in directly operating health programs as well as purchasing health care services. The following provisions of this measure would increase health care costs generally.

Physical Examination. Currently, HMOs, health insurers, and other health care businesses may refuse to authorize recommended care that they believe to be unnecessary, unproven, or more expensive than an effective alternative treatment, without physically examining the patient. Patients usually have a right to appeal such a denial. This measure requires health insurers, health plans, or other health care businesses to physically examine a patient before refusing to approve care that is a covered benefit and that has been recommended by the patient's doctor or nurse (or other licensed health professional). The person conducting the examination would have to be a licensed health care professional with the expertise to evaluate the patient's need for the recommended care.

Requiring a physical examination prior to denying care would increase general health care costs in two ways. First, health care businesses would have to add staff to provide additional examinations. Second, requiring an examination probably would result in some approvals of care that otherwise would be denied.

Staffing Requirements. The measure requires that all health care facilities provide "minimum safe and adequate" staffing of doctors, nurses, and other licensed or certified caregivers. The DHS would set, and periodically update, staffing standards for health care facilities that it licenses, such as hospitals, nursing facilities, and certain types of clinics. The Department of Corporations would set, and periodically update, staffing standards for medical clinics operated by health plans, which are not licensed by the DHS.

The staffing standards required by this measure would cover more types of facilities and all licensed and certified caregivers. In addition, these standards would have to be based on the specific needs of individual patients. Depending on the specific standards adopted, some health care facilities might have to add more staff, hire more highly skilled staff, or both. The effect on overall health care costs could range from minor to significant.

Financial Incentives. The measure prohibits insurers, health plans, and other health care businesses from offering financial incentives to doctors, nurses, or other licensed or certified caregivers if those incentives would deny, withhold, or delay medically appropriate care to which patients are entitled.

Restricting financial incentives could increase general health care costs by limiting the use of risk pools and profit-sharing arrangements that encourage providers to restrain costs. However, the measure specifically allows the use of capitation payments. Furthermore, it is not clear whether the measure prohibits any financial incentives that are not already prohibited under federal restrictions that apply to providers who serve Medicare or Medi-Cal patients. Consequently, the provision's effect on health care costs is unknown, but could range from minor to significant.

Protection for Certain Health Care Professionals. The measure prohibits health care businesses from attempting to prevent doctors, nurses, and other health care professionals from giving patients any information relevant to their medical care. The measure also broadens existing protections for health care professionals who advocate for patient care.

In addition, the measure protects doctors, nurses, and other licensed or certified caregivers from adverse actions by health care businesses—such as firing, contract termination, or demotion—without "just cause." Examples of just cause include proven malpractice, endangering patients, drug abuse, or economic necessity. Just cause protections currently apply to some health care professionals, such as those who work for public agencies under civil service and those who work under labor agreements with just cause provisions. This provision of the measure would reduce some employers' flexibility and thereby could increase costs to health care businesses by an unknown amount. The additional costs would include the need to keep records to document the basis for actions taken against employees or contractors in order to show just cause for the action.

Liability of Health Care Professionals. The measure specifies that licensed health care professionals who set guidelines for care, or determine what care patients receive, shall be subject to the same professional standards that apply to health care professionals who provide direct care to patients. This provision would increase the risk of malpractice liability for some health care professionals who make decisions affecting patient care, but who do not provide direct care. This could increase health care costs by an unknown amount.

Access to Information. The measure requires private health care businesses with more than 100 employees to make certain types of information available to the public regarding staffing, guidelines for care, financial data, and the status of complaints against the business.

EFFECT OF THE MEASURE ON THE STATE AND LOCAL GOVERNMENTS

Summary. This measure would result in unknown additional costs, probably in the range of tens of millions to hundreds of millions of dollars annually, due to the measure's effects on the state's and local governments' costs of directly operating health programs as well as purchasing health care services.

Increased Costs to Government to Operate Health Programs

Requirement for Physical Examinations. If the Medi-Cal Program is subject to this measure, the requirement for a physical examination prior to denial of care would increase state costs by an unknown amount, potentially exceeding $100 million annually.

Counties operate health care programs for people in need who do not qualify for other health care programs such as Medicare or Medi-Cal. These programs also would experience some increase in costs to provide additional examinations and for additional costs of care. These costs are unknown, but probably less than the potential costs to the Medi-Cal Program.

Staffing Requirements. The staffing requirements in this measure could increase the costs of health facilities operated by the state and local governments, including University of California hospitals, state developmental centers and mental hospitals, prison and Youth Authority health facilities, state veterans' homes, county hospitals and clinics, and hospitals operated by hospital districts. The amount of this potential increase is unknown and could range from minor to significant, depending on the actual staffing standards that are adopted.

Increased Costs to Government to Purchase Health Care Services

State Medi-Cal Program. The state contracts with HMOs and health care networks to serve a portion of the clients in the Medi-Cal Program. Cost increases to these organizations would tend to increase Medi-Cal costs by an unknown amount. The state spends about $6 billion annually (plus a larger amount of federal funds) for the Medi-Cal Program, primarily to purchase health care services. The potential cost increase to the state could range from a few million dollars to more than one hundred million dollars annually, due to the measure's effects on health care costs generally (as described above).

County Health Care Costs. Counties spend over $2 billion annually to provide health care to indigents. In addition to services that they provide directly, counties contract to purchase a significant amount of services. The potential county cost increases could be up to tens of millions of dollars annually, due to the measure's effects on health care costs generally.

State and Local Employee Health Insurance Costs. The state currently spends about $900 million annually for health benefits of employees and retirees, and the amount spent by local governments is greater. By increasing health care costs generally, the measure could increase benefit costs to the state and local governments by an unknown amount, potentially in the tens of millions of dollars annually. However, the disclosure of financial information as a result of this measure could assist in negotiating lower rates with health plans, offsetting some portion of these costs.

State Administration and Enforcement Costs

The measure would result in additional costs to the Departments of Health Services and Corporations and to other state agencies to administer and enforce its provisions (primarily the staffing standards). These costs could be roughly $10 million annually, to various special funds that are supported by fees imposed on health care businesses and professionals.

For text of Proposition 214 see page 102

214 Health Care. Consumer Protection. Initiative Statute.

Argument in Favor of Proposition 214

The health care industry is changing rapidly, and some of those changes could be dangerous to your health. That's why we need Proposition 214, the HMO Patient Rights Initiative. All of us, especially those of us who depend on health care the most—seniors, cancer patients, adults and children with disabilities—must be certain that our health insurance will be there when we need it.

Proposition 214:

- Prohibits written and unwritten gag rules that keep doctors from telling patients about the care they need.
- Protects doctors, nurses, nursing home aides, paramedics and other health care givers from intimidation when they speak out on behalf of patients.
- Prohibits financial incentives for withholding care patients need.
- Requires insurers to disclose guidelines for denying care and to give patients a second opinion—including a physical examination—before denying care recommended by the patient's doctor.
- Forces HMOs and insurers to disclose how much they spend on patient care and how much is spent on executive salaries and corporate overhead.
- Requires that hospitals and nursing homes have safe levels of staffing.
- Prohibits the sale of your medical records without your permission.
- Will be enforced by existing state agencies and without new taxes.

Gag rules on doctors and nurses are wrong. Intimidation of caregivers is wrong. Bonuses for denying care that people need are wrong. Secret guidelines for denying care are wrong. Unsafe staffing in hospitals and nursing homes is wrong.

It is dangerous for everyone if HMOs and health insurers worry more about making money than they do about your health when they make decisions about your care.

If you get sick, you have a right to know what care you need, and you have a right to get the care your insurance premiums have paid for.

You should not have to worry whether your doctor is afraid of retaliation for referring you to a specialist or whether nursing home aides fear being punished for speaking up for their patients. You should not have to worry that your health plan could drop your doctor for no reason.

You should not need to be afraid your doctor is being paid a bonus for denying you the care you need.

You should know how much of your insurance premium is spent on actual patient care and how much on bureaucratic overhead and executive salaries.

Is it important to contain costs to keep health care affordable? Yes.

Should cost controls be used as an excuse to deny patients the treatments they need just because administrators for HMOs and insurers think it will cost them too much money? Never.

214 will be enforced by existing agencies, minimizing enforcement costs. And those costs are necessary in order to make sure the rights of patients are safeguarded.

Proposition 214 is a decision about life and death. Please consider carefully and join us in voting yes on Proposition 214.

MARY TUCKER
Chair, State Legislative Committee
American Association of Retired Persons

LOIS SALISBURY
Executive Director, Children Now

LAURA REMSON MITCHELL
Issues Coordinator, National Multiple Sclerosis Society, California Chapters

Rebuttal to Argument in Favor of Proposition 214

PROPOSITION 214, LIKE 216, IS A COSTLY TROJAN HORSE. We don't need special-interest ballot initiatives to "protect" patients. EXISTING LAW ALREADY: protects patient advocacy; prohibits gag rules; requires coverage criteria be developed by physicians; provides for safe staffing in hospitals; prohibits paying doctors to deny needed care; and prohibits disclosing confidential patient records.

These provisions are part of 214 to hide the measure's real purposes: to add bloated, costly staffing requirements, to give special-interest job protection to some health care workers, and to help trial lawyers file frivolous health care lawsuits.

Proposition 214 DOES NOT provide health coverage to a single Californian. It costs consumers BILLIONS OF DOLLARS in higher health insurance costs while costing taxpayers HUNDREDS OF MILLIONS more for administration and to cover government workers. Not a penny of 214 will provide health insurance for the uninsured.

Real health care reform should make insurance more affordable and reduce the number of uninsured. Props. 214 and 216 dramatically increase health insurance costs and will lead to MORE UNINSURED.

That's why groups like the Seniors Coalition, 60 Plus Association and United Seniors Association oppose 214 and 216. It's why leaders of groups that care for the poor like SISTERS OF MERCY and DAUGHTERS OF CHARITY oppose the initiatives. And it's why small business and taxpayer groups like the CALIFORNIA TAXPAYERS ASSOCIATION and the NATIONAL TAX LIMITATION COMMITTEE say NO on 214 and 216.

Don't be fooled by special-interest, trojan horse ballot initiatives. VOTE NO.

GORDON JONES
Legislative Director, The Seniors Coalition

MARY DEE HACKER, R.N.
Childrens Hospital, Los Angeles

KIRK WEST
President, California Chamber of Commerce

Argument Against Proposition 214

PROPOSITIONS 214 and 216 are two peas in a pod. They contain similar language promising bogus health care reforms that will dramatically raise health insurance and taxpayer costs for consumers and taxpayers in California.

Just ask yourself:

DOES PROPOSITION 214 MAKE HEALTH INSURANCE MORE AFFORDABLE?—No. An independent economic study estimates that under 214 insurance premiums could go up by as much as 15%. That would cost Californians OVER 3 BILLION DOLLARS A YEAR IN HIGHER HEALTH COSTS.

WHAT DOES A 15% INCREASE IN HEALTH INSURANCE DO TO YOUR FAMILY'S BUDGET? For many families, that's ALMOST $1,000 PER YEAR. Seniors and people on fixed incomes will be hardest hit. That's one reason why groups like The SENIORS COALITION and the 60 Plus Association OPPOSE PROP. 214.

Small business employees are also concerned:

"I work for a small company struggling to survive. If health insurance goes up, my employer couldn't afford it, and neither could my family."
— Aletha Hill, Camellia City Landscape Management, Sacramento

DOES PROP. 214 HELP THE UNINSURED?—No. Higher insurance costs will lead to MORE Californians WITHOUT INSURANCE. That's why California nurses and physicians oppose 214.

"For the past 20 years, I've cared for patients who have no health coverage. Proposition 214 means fewer people will have health insurance. That's just what California DOESN'T need."
— Joseph Coulter, M.D., Yuba City

DOES 214 HELP THE POOR AND MEDICALLY INDIGENT?—No. Hospitals that are committed to care for the poor would be SEVERELY HURT under 214.

"Our mission is to provide health care to the poor and underserved. Proposition 214 will make it much more difficult to help people in need."
— Sister Brenda O'Keeffe, R.N. Sisters of Mercy

DOES PROP. 214 HELP TAXPAYERS?—No. The non-partisan Legislative Analyst says 214 could cost state taxpayers HUNDREDS OF MILLIONS of dollars MORE per year. These higher costs will need to be cut from existing programs like law enforcement and education, or TAXES WILL NEED TO BE RAISED.

"According to one expert study, taxpayers in Los Angeles County alone would be forced to pay almost $60 MILLION more to insure government employees. Taxpayers in every jurisdiction will be hurt by 214."
— California Taxpayer's Association.

WHO'S BEHIND 214? The Service Employees International Union—a labor union representing health care workers. They'll have more workers to unionize under 214. And, 214 provides special interest job protection to certain health care workers. Trial lawyers will be able to file lawsuits over virtually every employment decision involving a health care worker because of 214.

WHAT'S IN IT FOR THE REST OF US?

. . . HIGHER INSURANCE COSTS FOR FAMILIES AND SMALL BUSINESSES
. . . MILLIONS IN TAX INCREASES
. . . MORE GOVERNMENT BUREAUCRACY
. . . and up to 60,000 LOST CALIFORNIA JOBS

California needs health care reform but Proposition 214—like Prop. 216—WILL MAKE THINGS WORSE. That's why a diverse coalition opposes them, including Democrats, Republicans and Independents, seniors, physicians, nurses, hospitals, taxpayer groups, small businesses, and local government organizations.

Propositions 214 and 216 are the WRONG SOLUTIONS to California's health care ills.

SISTER CAROL PADILLA, R.N.
Daughter of Charity

RICHARD GORDINIER, M.D.
Arcadia

KIRK WEST
President, California Chamber of Commerce

Rebuttal to the Argument Against Proposition 214

Let's be clear. Who opposes 214? The California Association of HMOs and the Association of California Life and Health Insurance Companies. HMOs and insurers plan to spend millions of your insurance premium dollars to defeat 214.

The opponents call 214's patient protections "bogus". Read Proposition 214. Then ask yourself, are its protections "bogus" or are they genuine protections patients need?

- Is it "bogus" to protect freedom of speech between patients and doctors?
- Is it "bogus" to make sure medical decisions are made by patients and doctors, not by HMO and insurance company bureaucrats?
- Is it "bogus" to prevent HMOs and insurers from using gag rules, intimidation, or financial incentives to discourage doctors from providing needed care?
- Is it "bogus" to require HMOs and insurers to tell consumers if their insurance premiums are being spent on actual patient care or bureaucratic overhead and executive salaries?

Opponents make wildly exaggerated claims about costs, based on an "economic study" paid for by their own campaign. An independent analysis states that 214's patient protections would increase overall costs by less than 1%.

Opponents try to confuse 214 with Proposition 216. But Propositions 214 and 216 are NOT "two peas in a pod:"

- 214 is a simple, effective measure that relies on existing agencies to implement its patient protections, minimizing enforcement costs. 214 CONTAINS NO NEW TAXES.
- 216 lacks some of 214's key patient protections and 216 includes billions of dollars in new taxes.

Please, help protect patient rights. VOTE YES ON PROPOSITION 214.

ROBYN WAGNER HOLTZ
President, Orange County Chapter, THE Susan G. Komen Breast Cancer Foundation

W. E. (GENE) GIBERSON
President, Alzheimers Association, California Council

JONATHAN SHESTACK
Vice President, Cure Autism Now

Medical Use of Marijuana. Initiative Statute.

Official Title and Summary Prepared by the Attorney General

MEDICAL USE OF MARIJUANA. INITIATIVE STATUTE.

- Exempts patients and defined caregivers who possess or cultivate marijuana for medical treatment recommended by a physician from criminal laws which otherwise prohibit possession or cultivation of marijuana.
- Provides physicians who recommend use of marijuana for medical treatment shall not be punished or denied any right or privilege.
- Declares that measure not be construed to supersede prohibitions of conduct endangering others or to condone diversion of marijuana for non-medical purposes.
- Contains severability clause.

Summary of Legislative Analyst's Estimate of Net State and Local Government Fiscal Impact:

- Adoption of this measure would probably have no significant fiscal impact on state and local governments.

Analysis by the Legislative Analyst

BACKGROUND

Under current state law, it is a crime to grow or possess marijuana, regardless of whether the marijuana is used to ease pain or other symptoms associated with illness. Criminal penalties vary, depending on the amount of marijuana involved. It is also a crime to transport, import into the state, sell, or give away marijuana.

Licensed physicians and certain other health care providers routinely prescribe drugs for medical purposes, including relieving pain and easing symptoms accompanying illness. These drugs are dispensed by pharmacists. Both the physician and pharmacist are required to keep written records of the prescriptions.

PROPOSAL

This measure amends state law to allow persons to grow or possess marijuana for medical use when recommended by a physician. The measure provides for the use of marijuana when a physician has determined that the person's health would benefit from its use in the treatment of cancer, anorexia, AIDS, chronic pain, spasticity, glaucoma, arthritis, migraine, or "any other illness for which marijuana provides relief." The physician's recommendation may be oral or written. No prescriptions or other record-keeping is required by the measure.

The measure also allows caregivers to grow and possess marijuana for a person for whom the marijuana is recommended.

The measure states that no physician shall be punished for having recommended marijuana for medical purposes. Furthermore, the measure specifies that it is not intended to overrule any law that prohibits the use of marijuana for *nonmedical* purposes.

FISCAL EFFECT

Because the measure specifies that growing and possessing marijuana is restricted to medical uses when recommended by a physician, and does not change other legal prohibitions on marijuana, this measure would probably have no significant state or local fiscal effect.

For text of Proposition 215 see page 104

215 Medical Use of Marijuana. Initiative Statute.

Argument in Favor of Proposition 215

PROPOSITION 215 HELPS TERMINALLY ILL PATIENTS

Proposition 215 will allow seriously and terminally ill patients to legally use marijuana, if, and only if, they have the approval of a licensed physician.

We are physicians and nurses who have witnessed firsthand the medical benefits of marijuana. *Yet today in California, medical use of marijuana is illegal.* Doctors cannot prescribe marijuana, and terminally ill patients must break the law to use it.

Marijuana is not a cure, but it can help cancer patients. Most have severe reactions to the disease and chemotherapy—commonly, severe nausea and vomiting. One in three patients discontinues treatment despite a 50% chance of improvement. When standard anti-nausea drugs fail, marijuana often eases patients' nausea and permits continued treatment. It can be either smoked or baked into foods.

MARIJUANA DOESN'T JUST HELP CANCER PATIENTS

University doctors and researchers have found that marijuana is also effective in: lowering internal eye pressure associated with glaucoma, slowing the onset of blindness; reducing the pain of AIDS patients, and stimulating the appetites of those suffering malnutrition because of AIDS 'wasting syndrome'; and alleviating muscle spasticity and chronic pain due to multiple sclerosis, epilepsy, and spinal cord injuries.

When one in five Americans will have cancer, and 20 million may develop glaucoma, shouldn't our government let physicians prescribe any medicine capable of relieving suffering?

The federal government stopped supplying marijuana to patients in 1991. Now it tells patients to take Marinol, a synthetic substitute for marijuana that can cost $30,000 a year and is often less reliable and less effective.

Marijuana is not magic. But often it is the only way to get relief. A Harvard University survey found that almost one-half of cancer doctors surveyed would prescribe marijuana to some of their patients if it were legal.

IF DOCTORS CAN PRESCRIBE MORPHINE, WHY NOT MARIJUANA?

Today, physicians are allowed to prescribe powerful drugs like morphine and codeine. It doesn't make sense that they cannot prescribe marijuana, too.

Proposition 215 allows physicians to recommend marijuana in writing or verbally, but if the recommendation is verbal, the doctor can be required to verify it under oath. Proposition 215 would also protect patients from criminal penalties for marijuana, but ONLY if they have a doctor's recommendation for its use.

MARIJUANA WILL STILL BE ILLEGAL FOR NON-MEDICAL USE

Proposition 215 DOES NOT permit non-medical use of marijuana. Recreational use would still be against the law. Proposition 215 does not permit anyone to drive under the influence of marijuana.

Proposition 215 allows patients to cultivate their own marijuana simply because federal laws prevent the sale of marijuana, and a state initiative cannot overrule those laws.

Proposition 215 is based on legislation passed twice by both houses of the California Legislature with support from Democrats and Republicans. Each time, the legislation was vetoed by Governor Wilson.

Polls show that a majority of Californians support Proposition 215. Please join us to relieve suffering and protect your rights. VOTE YES ON PROPOSITION 215.

RICHARD J. COHEN, M.D.
Consulting Medical Oncologist (Cancer Specialist), California-Pacific Medical Center, San Francisco

IVAN SILVERBERG, M.D.
Medical Oncologist (Cancer Specialist), San Francisco

ANNA T. BOYCE
Registered Nurse, Orange County

Rebuttal to Argument in Favor of Proposition 215

AMERICAN CANCER SOCIETY SAYS: *". . . Marijuana is not a substitute for appropriate anti-nausea drugs for cancer chemotherapy and vomiting. [We] see no reason to support the legalization of marijuana for medical use."*

Thousands of scientific studies document the harmful physical and psychological effects of smoking marijuana. It is not compassionate to give sick people a drug that will make them sicker.

SMOKING MARIJUANA IS NOT APPROVED BY THE FDA FOR *ANY* ILLNESS

Morphine and codeine are FDA approved drugs. The FDA has not approved smoking marijuana as a treatment for *any* illness.

Prescriptions for easily abused drugs such as morphine and codeine must be in writing, and in triplicate, with a copy sent to the Department of Justice so these dangerous drugs can be tracked and kept off the streets. Proposition 215 requires absolutely *no* written documentation of any kind to grow or smoke marijuana. It will create legal loopholes that would protect drug dealers and growers from prosecution.

PROPOSITION 215 IS MARIJUANA LEGALIZATION—NOT MEDICINE

- Federal laws prohibit the possession *and* cultivation of marijuana. Proposition 215 would encourage people to break federal law.
- Proposition 215 will make it legal for people to smoke marijuana in the workplace . . . or in public places . . . next to your children.

NOT ONE MAJOR DOCTOR'S ORGANIZATION, LAW ENFORCEMENT ASSOCIATION OR DRUG EDUCATION GROUP SUPPORTS PROPOSITION 215—IT'S A SCAM CONCOCTED AND FINANCED BY DRUG LEGALIZATION ADVOCATES! PLEASE VOTE *NO*.

SHERIFF BRAD GATES
Past President, California State Sheriffs' Association

ERIC A. VOTH, M.D., F.A.C.P.
Chairman, The International Drug Strategy Institute

GLENN LEVANT
Executive Director, D.A.R.E. America

 Arguments printed on this page are the opinions of the authors and have not been checked for accuracy by any official agency.

Argument Against Proposition 215

READ PROPOSITION 215 CAREFULLY • IT IS A CRUEL HOAX

The proponents of this deceptive and poorly written initiative want to exploit public compassion for the sick in order to legalize and legitimatize the widespread use of marijuana in California.

Proposition 215 DOES NOT restrict the use of marijuana to AIDS, cancer, glaucoma and other serious illnesses.

READ THE FINE PRINT. Proposition 215 legalizes marijuana use for *"any other illness for which marijuana provides relief."* This could include stress, headaches, upset stomach, insomnia, a stiff neck . . . or just about anything.

NO WRITTEN PRESCRIPTION REQUIRED
• EVEN CHILDREN COULD SMOKE POT LEGALLY!

Proposition 215 does not require a written prescription. Anyone with the "oral recommendation or approval by a physician" can grow, possess or smoke marijuana. No medical examination is required.

THERE IS NO AGE RESTRICTION. Even children can be legally permitted to grow, possess and use marijuana . . . without parental consent.

NO FDA APPROVAL • NO CONSUMER PROTECTION

Consumers are protected from unsafe and impure drugs by the Food and Drug Administration (FDA). This initiative makes marijuana available to the public without FDA approval or regulation. Quality, purity and strength of the drug would be unregulated. There are no rules restricting the amount a person can smoke or how often they can smoke it.

THC, the active ingredient in marijuana, is already available by prescription as the FDA approved drug Marinol.

Responsible medical doctors wishing to treat AIDS patients, cancer patients and other sick people can prescribe Marinol right now. They don't need this initiative.

NATIONAL INSTITUTE OF HEALTH, MAJOR MEDICAL GROUPS SAY *NO* TO SMOKING MARIJUANA FOR MEDICINAL PURPOSES

The National Institute of Health conducted an extensive study on the medical use of marijuana in 1992 and concluded that smoking marijuana is *not* a safe or more effective treatment than Marinol or other FDA approved drugs for people with AIDS, cancer or glaucoma.

The American Medical Association, the American Cancer Society, the National Multiple Sclerosis Society, the American Glaucoma Society and other top medical groups have *not* accepted smoking marijuana for medical purposes.

LAW ENFORCEMENT AND DRUG PREVENTION LEADERS SAY *NO* TO PROPOSITION 215

The California State Sheriffs Association
The California District Attorneys Association
The California Police Chiefs Association
The California Narcotic Officers Association
The California Peace Officers Association
Attorney General Dan Lungren

say that Proposition 215 will provide new legal loopholes for drug dealers to avoid arrest and prosecution . . .

Californians for Drug-Free Youth
The California D.A.R.E. Officers Association
Drug Use Is Life Abuse
Community Anti-Drug Coalition of America
Drug Watch International

say that Proposition 215 will damage their efforts to convince young people to remain drug free. It sends our children the false message that marijuana is safe and healthy.

HOME GROWN POT • HAND ROLLED "JOINTS"
• DOES THIS SOUND LIKE MEDICINE?

This initiative allows unlimited quantities of marijuana to be grown anywhere . . . in backyards or near schoolyards without any regulation or restrictions. This is not responsible medicine. It is marijuana legalization.

VOTE *NO* ON PROPOSITION 215

JAMES P. FOX
President, California District Attorneys Association

MICHAEL J. MEYERS, M.D.
Medical Director, Drug and Alcohol Treatment Program, Brotman Medical Center, CA

SHARON ROSE
Red Ribbon Coordinator, Californians for Drug-Free Youth, Inc.

Rebuttal to Argument Against Proposition 215

SAN FRANCISCO DISTRICT ATTORNEY TERENCE HALLINAN SAYS . . .

Opponents aren't telling you that law enforcement officers are on both sides of Proposition 215. I support it because I don't want to send cancer patients to jail for using marijuana.

Proposition 215 does not allow "unlimited quantities of marijuana to be grown anywhere." It only allows marijuana to be grown for a patient's personal use. Police officers can still arrest anyone who grows too much, or tries to sell it.

Proposition 215 doesn't give kids the okay to use marijuana, either. Police officers can still arrest anyone for marijuana offenses. Proposition 215 simply gives those arrested a defense in court, *if they can prove they used marijuana with a doctor's approval.*

ASSEMBLYMAN JOHN VASCONCELLOS SAYS . . .

Proposition 215 is based on a bill I sponsored in the California Legislature. It passed both houses with support from both parties, but was vetoed by Governor Wilson. If it were the kind of irresponsible legislation that opponents claim it was, it would not have received such widespread support.

CANCER SURVIVOR JAMES CANTER SAYS . . .

Doctors and patients should decide what medicines are best. Ten years ago, I nearly died from testicular cancer that spread into my lungs. Chemotherapy made me sick and nauseous. The standard drugs, like Marinol, didn't help.

Marijuana blocked the nausea. As a result, I was able to continue the chemotherapy treatments. Today I've beaten the cancer, and no longer smoke marijuana. I credit marijuana as part of the treatment that saved my life.

TERENCE HALLINAN
San Francisco District Attorney

JOHN VASCONCELLOS
Assemblyman, 22nd District
Author, 1995 Medical Marijuana Bill

JAMES CANTER
Cancer survivor, Santa Rosa

Health Care. Consumer Protection. Taxes on Corporate Restructuring. Initiative Statute.

Official Title and Summary Prepared by the Attorney General

HEALTH CARE. CONSUMER PROTECTION. TAXES ON CORPORATE RESTRUCTURING. INITIATIVE STATUTE.

- Prohibits health care businesses from: discouraging health care professionals from informing patients/advocating for treatment; offering incentives for withholding care; refusing services recommended by licensed caregiver without examination by business's own professional; increasing charges without filing required statement; conditioning coverage on arbitration agreement.
- Requires health care businesses to: make tax returns public; establish criteria written by licensed health professionals for denying payment for care; establish staffing standards for health care facilities.
- Authorizes public/private enforcement actions.
- Establishes nonprofit public corporation for consumer advocacy.
- Assesses taxes for certain corporate structure changes.

Summary of Legislative Analyst's Estimate of Net State and Local Government Fiscal Impact:

- Increased revenues from new taxes on health care businesses—potentially in the hundreds of millions of dollars annually—to fund a corresponding amount of expenditures for specified health care services.
- Additional state and local costs for existing health care programs and benefits, probably in the range of tens of millions to hundreds of millions of dollars annually, depending on several factors.
- Reduced state General Fund revenue of up to tens of millions of dollars annually because the new taxes would reduce businesses' taxable income.

Analysis by the Legislative Analyst

BACKGROUND

Health Care Spending

Annual spending on health care in California totals more than $100 billion. About two-thirds of this cost is covered by various forms of health insurance, with the remainder paid by other sources.

Roughly 80 percent of all Californians are covered by health insurance. Specifically:

- About half receive health insurance through their employer or the employer of a family member.
- Roughly 20 percent are covered by two major government-funded health insurance programs: the federal Medicare Program, primarily serving persons age 65 or older, and the Medi-Cal Program, jointly funded by the federal and state governments, serving eligible low-income persons.
- About 10 percent of Californians directly purchase health insurance.

Until recently, spending on health care had been growing much faster than inflation and population changes. During the 1980s, for example, average health care spending in the United States grew by almost 11 percent annually after adjusting for inflation and population. Since 1990, however, this rate of growth has slowed to about 4 percent annually.

Health Maintenance Organizations

In part, this slower growth has been due to efforts by employers and government to control their health insurance costs. One way they have attempted to hold down costs is to contract with health maintenance organizations (HMOs), which provide health services through their own doctors and hospitals or through contracts with physicians and hospitals. About one-third of Californians belong to HMOs. Most of these HMO members are covered under employee health plans, but many persons covered by Medicare or Medi-Cal also receive their health care through HMOs.

Generally, health coverage provided by an HMO is less expensive than comparable health insurance coverage provided on a "fee-for-service" basis. Health maintenance organizations use several methods to control costs, such as "capitation" payments, other financial incentives, and utilization review.

Capitation and Other Financial Incentives. Under the traditional fee-for-service approach, doctors and hospitals charge fees based on the specific service provided to a patient. By contrast, HMOs generally use capitation to pay doctors. Under this approach, doctors receive a fixed payment for each HMO member regardless of the amount of service provided to the member. Capitation gives doctors a financial incentive to use cost-effective types of care.

In addition to capitation, HMOs use other financial incentives to control health care costs. The federal government, however, limits the types of financial incentives that may be used by HMOs when serving Medicare or Medi-Cal recipients. Specifically, federal law prohibits any financial incentives to doctors that could act to reduce medically necessary care to *individual* patients, such as a bonus payment for each patient that is not hospitalized during the year. However, federal law does allow "risk pools" and other types of profit-sharing

arrangements that enable doctors to benefit from controlling costs for *groups* of patients.

Utilization Review. Health maintenance organizations—as well as the state's Medi-Cal program and insurers using the fee-for-service approach—also attempt to contain costs by using "utilization review" procedures. Under these procedures, health plans will not pay for certain types of expensive or unusual treatments unless they have approved the treatment in advance.

Controlling Hospital Costs

Health maintenance organizations also control their costs by reducing their use of hospitals and encouraging more treatment in doctors' offices and clinics. This trend has contributed to an excess of hospital beds.

On average, about half of the hospital beds in California were unused in 1994. As a result, some hospitals have downsized, merged, or closed; and many hospitals are seeking ways to reduce costs in order to compete for business more effectively. Since staffing is a major cost, hospital cost control efforts often focus on reducing staff and using less expensive personnel in place of more expensive personnel where possible (using nurses' aides rather than nurses, for example).

Regulation of Health Care Facilities

Licensing of Facilities. The Department of Health Services (DHS) licenses many types of health facilities in California, such as hospitals and nursing homes, and has general authority to set staffing standards for those facilities. Clinics that are owned and operated directly by doctors, however, are not licensed.

Staffing Standards. State regulations generally require hospitals to keep staffing records and to base their staffing levels for nurses on an assessment of patient needs. Hospitals are not required to have a specified number of nurses per patient, except in intensive care units. State law requires nursing homes to have at least one registered nurse per shift and sets minimum staffing standards for nurses and nursing assistants per patient.

The DHS is revising its current hospital staffing regulations to cover all departments within each facility. Additionally, the pending regulations require hospitals to establish their staffing needs using a system that more specifically takes into account the condition of each patient. The DHS also enforces federal requirements that health facilities serving Medicare or Medi-Cal patients must have enough staff to provide adequate care.

Regulation of Health Plans and Health Insurance

The state Department of Corporations regulates the financial and business operations of health plans, including HMOs, in California. The Department of Insurance regulates companies that sell health insurance but do not provide health care themselves, including workers' compensation insurers.

PROPOSAL

This measure imposes new taxes on some health care businesses and individuals, with the revenue dedicated to financing a variety of health care services. It also establishes additional requirements for the operation of health care businesses.

The measure:

- Imposes new taxes on health care businesses for bed reductions, mergers, acquisitions, and restructurings; and on certain individuals who receive stock distributions from health care businesses. Provides that revenues from these taxes be spent to administer the measure and to fund specified health care services.
- Prohibits health care businesses from denying recommended care without a physical examination.
- Requires the state to set more comprehensive staffing standards for all health care facilities within six months.
- Prohibits health care businesses from using financial incentives to withhold safe, adequate, and appropriate care.
- Increases protections for certain health care employees and contractors.
- Requires health care businesses to make various types of information available to the public.
- Creates a new public corporation—the Health Care Consumer Association. The association, supported by voluntary contributions deposited in a new Health Care Consumer Protection Fund, would advocate for the interests of health care consumers.

The measure's provisions would affect both public and private health facilities. However, it is not clear whether the state's Medi-Cal Program would be considered a "health care business" subject to the requirements of this measure.

FISCAL EFFECT

The fiscal effect of this measure is subject to a great deal of uncertainty. The health care industry is large, complex, and undergoing rapid change, making it difficult to estimate the effect of new requirements on the overall health care marketplace. Furthermore, several of the measure's provisions could have widely varying fiscal effects, depending on how they are implemented or interpreted by the courts.

Revenues

The measure imposes three new taxes on private health care businesses in California (excluding insurers) with at least 150 employees and a new tax on certain individuals. The State Board of Equalization would collect these taxes.

Bed Reduction Tax. This is a tax on any private health care business that reduces licensed patient beds in hospitals or nursing facilities. For each bed eliminated, the tax would be 1 percent of the business' average per-bed gross revenues. The tax would have to be paid each year for five years.

Tax on Mergers and Combinations. The measure generally imposes a one-time 1 percent tax on the value of any California assets involved in mergers or acquisitions of health care businesses. The measure also imposes a 3 percent tax on the gross revenue of newly formed "multiprovider networks" (that is, health care businesses that jointly market or provide health care services). The network tax would be paid during the first five years of operation.

Tax on Sale or Transfer of Nonprofit or Publicly Owned Assets. The measure imposes a 10 percent tax on the sale, lease, transfer, or conversion of any nonprofit health care business (or provider of health supplies or services) to a for-profit business. The tax would be on the value of the nonprofit assets that are involved in the transaction. In the case of the sale or conversion of a publicly owned health facility (such as a county hospital or clinic) to a private entity, the tax would be 1 percent of the value of the converted assets.

Tax on Stock Distributions. The measure imposes a 2.5 percent tax on the value of any new stock or other

securities provided as payment to officers of, employees of, or consultants to private health care businesses or suppliers. The tax would apply only to persons who own (individually or together with family members) at least $2 million of stock or securities in the business or related businesses. This new tax would be in addition to California's existing income tax.

Use of New Tax Revenues. Revenues from the taxes imposed by this measure would be deposited in a new Public Health and Preventive Services Fund. After covering the costs of administering and enforcing this measure, the DHS would spend the remaining revenues for the following purposes:

- Maintaining essential public health services, including trauma care, controlling communicable diseases, and preventive services.
- Maintaining health care for seniors whose access to safe and adequate care is jeopardized by cuts in Medicare and other benefits.
- Ensuring adequate public health services and facilities for the population at large, including individuals and families who lose job-related health benefits.

Effect of the Measure on Health Care Costs Generally

Changes in health care costs have an impact on the state and local governments because of their role in directly operating health programs as well as purchasing health care services. The following provisions of this measure would increase health care costs generally.

Physical Examination. Currently, HMOs, health insurers, and other health care businesses may refuse to authorize recommended care that they believe to be unnecessary, unproven, or more expensive than an effective alternative treatment, without physically examining the patient. Patients usually have a right to appeal such a denial. This measure requires health insurers, health plans, or other health care businesses to physically examine a patient before refusing to approve care that is a covered benefit and that has been recommended by the patient's doctor or nurse (or other licensed health care professional). The person conducting the examination would have to be a licensed health care professional with the expertise to evaluate the patient's need for the recommended care.

Requiring a physical examination prior to denying care would increase general health care costs in two ways. First, health care businesses would have to add staff to provide additional examinations. Second, requiring an examination probably would result in some approvals of care that otherwise would be denied.

Staffing Requirements. The measure requires that all health care facilities provide "safe and adequate" staffing of doctors, nurses, and other licensed or certified caregivers. Within six months after the approval of this measure, the DHS would set staffing standards for all health care facilities, such as hospitals, nursing facilities, clinics, and doctor's offices.

The staffing standards required by this measure would have to cover all types of facilities and all licensed and certified caregivers. In addition, these standards would have to be based on the specific needs of individual patients. Depending on the specific standards adopted, some health care facilities might have to add more staff, hire more highly skilled staff, or both. The effect on overall health care costs could range from minor to significant.

Financial Incentives. The measure prohibits insurers, health plans, and other health care businesses from offering financial incentives to doctors, nurses, or other licensed or certified caregivers if those incentives would deny, withhold, or delay safe, adequate, and appropriate care to which patients are entitled.

Restricting financial incentives could increase general health care costs by limiting the use of risk pools and profit-sharing arrangements that encourage providers to restrain costs. However, the measure specifically allows the use of capitation payments. Furthermore, it is not clear whether the measure prohibits any financial incentives that are not already prohibited under federal restrictions that apply to providers who serve Medicare or Medi-Cal patients. Consequently, the provision's effect on health care costs is unknown, but could range from minor to significant.

Protection for Certain Health Care Professionals. The measure prohibits health care businesses from attempting to prevent doctors, nurses, and other health care professionals from giving patients any information relevant to their medical care. The measure also broadens existing protections for health care professionals who advocate for patient care.

In addition, the measure protects doctors, nurses, and other licensed or certified caregivers from any adverse actions by health care businesses—such as firing, contract termination, or demotion—for providing "safe, adequate, and appropriate care." Depending on how this provision is interpreted, it could increase general health care costs by an unknown amount. Costs could increase to the extent that this protection restricts the ability of health care businesses to manage the level of care provided by their employees and contractors.

Liability of Health Care Professionals. The measure specifies that licensed health care professionals who set guidelines for care, or determine what care patients receive, shall be subject to the same professional standards that apply to health care professionals who provide direct care to patients. This provision would increase the risk of malpractice liability for some health care professionals who make decisions affecting patient care, but who do not provide direct care. This could increase health care costs by an unknown amount.

Access to Information. The measure requires all health care businesses to make certain types of information available to the public regarding staffing, guidelines for payment of care, and quality of care. In addition, the measure requires health care businesses with more than 150 employees to make available certain financial data and information on the status of complaints against the businesses.

Businesses Must Certify Higher Charges. Private health care businesses would have to certify to the DHS that any increase in their premiums or other charges for health services is necessary before the increase can take effect. Also, the measure requires public disclosure of the estimated revenue from the increase and the planned use of the additional funds.

Effect of New Taxes on Health Care Costs. The taxes imposed by this measure would be an additional direct cost to certain health care businesses. Furthermore, the taxes could result in higher costs by discouraging some actions (such as eliminating excess beds or creating larger networks) that would generate savings by improving efficiency. Some portion of these increased costs probably would be passed on in higher prices to purchasers of health care services. However, these additional costs could be partially offset to the extent that some of the tax revenues are allocated to finance "uncompensated care" costs for services currently provided to indigents and covered by higher charges to

other parties. The overall net increase in health care costs is unknown.

Effect of the Measure on the State and Local Governments

Summary. The most significant fiscal effects of this measure on the state and local governments are summarized below and then discussed in more detail:

- ***Revenues.*** The measure would result in unknown additional revenues, potentially in the hundreds of millions of dollars annually, from the new taxes on health care businesses and certain individuals. These revenues would be used to cover the administrative costs of the measure and for expenditure on specified health care services. The measure would also result in a state General Fund revenue loss of up to tens of millions of dollars annually, due to the effect on income taxes.
- ***Costs.*** In addition to the increased spending funded by the new tax revenues, the measure would result in unknown additional costs, probably in the range of tens of millions to hundreds of millions of dollars annually. This is due to the measure's effects on the state's and local governments' costs of directly operating health programs as well as purchasing health care services.

Revenue Effects of Measure

Public Health and Preventive Services Fund. The four taxes established by this measure would generate unknown revenues, potentially hundreds of millions of dollars annually. The actual amount of revenues will depend primarily on decisions made by health care businesses regarding the activities subject to these taxes, such as bed reductions, mergers, and acquisitions.

General Fund. The taxes imposed by this measure on health care businesses would reduce their taxable income. For this reason, the measure would reduce General Fund revenue from income taxes. The amount of this revenue loss would be up to tens of millions of dollars annually.

Potential Loss of Revenues From the Sale or Lease of Health Facilities. By imposing a tax on the sale, transfer, or lease of publicly owned health facilities to private organizations, the measure could reduce the market value of those facilities. As a result, the tax potentially would reduce revenues from those types of transactions. The amount of this earnings loss could be up to millions of dollars annually to the state and local governments, but would depend on many factors.

Health Care Consumer Protection Fund. The measure also would result in an unknown amount of revenues from voluntary contributions to the Health Care Consumer Association to support its activities.

Spending of New Tax Revenues. The measure requires the DHS to spend the revenues from the new taxes on a variety of health care services (after covering state administrative costs). These expenditures could total up to hundreds of millions of dollars annually, depending on the amount of revenue produced by the new taxes.

Increased Costs to Government to Operate Health Programs

Requirement for Physical Examinations. If the Medi-Cal Program is subject to this measure, the requirement for a physical examination prior to denial of care would increase state costs by an unknown amount, potentially exceeding $100 million annually.

Counties operate health care programs for people in need who do not qualify for other health care programs such as Medicare or Medi-Cal. These programs also would experience some increase in costs to provide additional examinations and for additional costs of care. These costs are unknown, but probably less than the potential costs to the Medi-Cal Program.

Staffing Requirements. The staffing requirements in this measure could increase the costs of health facilities operated by the state and local governments, including University of California hospitals, state developmental centers and mental hospitals, prison and Youth Authority health facilities, state veterans' homes, county hospitals and clinics, and hospitals operated by hospital districts. The amount of this potential increase is unknown and could range from minor to significant, depending on the actual staffing standards that are adopted.

Increased Costs to Government to Purchase Health Care Services

State Medi-Cal Program. The state contracts with HMOs and health care networks to serve a portion of the clients in the Medi-Cal Program. Cost increases to these organizations would tend to increase Medi-Cal costs by an unknown amount. The state spends about $6 billion annually (plus a larger amount of federal funds) for the Medi-Cal Program, primarily to purchase health care services. The potential cost increase to the state could range from a few million dollars to more than $100 million annually, due to the measure's effects on health care costs generally (as described above).

County Health Care Costs. Counties spend over $2 billion annually to provide health care to indigents. In addition to services that they provide directly, counties contract to purchase a significant amount of services. The potential county cost increases could be up to tens of millions of dollars annually, due to the measure's effects on health care costs generally.

State and Local Employee Health Insurance Costs. The state currently spends about $900 million annually for health benefits of employees and retirees, and the amount spent by local governments is greater. By increasing health care costs generally, the measure could increase benefit costs to the state and local governments by an unknown amount, potentially in the tens of millions of dollars annually. However, the provisions that require disclosure of financial data and certification of rate increases (which might discourage such increases) could offset some portion of these costs.

State Administration and Enforcement Costs

The measure would result in additional costs to the Department of Health Services, the State Board of Equalization, and other state agencies to administer and enforce its provisions (primarily the staffing standards and the collection of new taxes). The ongoing costs could be roughly $15 million annually, plus several million dollars of start-up costs in the first year. These costs would be paid from the new tax revenues in the Public Health and Preventive Services Fund created by this measure.

For text of Proposition 216 see page 104

216 Health Care. Consumer Protection. Taxes on Corporate Restructuring. Initiative Statute.

Argument in Favor of Proposition 216

Insurance companies and HMOs are downgrading medicine from a profession that serves patients to a business that squeezes them. Under "managed care," medical decisions are often made by insurance bureaucrats—instead of by doctors and nurses.

HMOs and insurance companies are increasingly controlling what doctors can say or do for you . . . Awarding bonuses to doctors for withholding treatment . . . Imposing "gag rules" that censor what doctors or nurses tell patients about their treatment . . . Denying referrals to specialists . . . Forcing patients out of hospitals before they're fully recovered . . . Replacing nurses with untrained, low-wage workers to care for patients . . . Cutting medical staff, while assigning doctors and nurses more patients.

These practices are reaping billions of dollars for giant health corporations and Wall Street moguls. But substandard care and unsafe cost-cutting result in tragic and unnecessary deaths and injuries.

To maintain the quality and compassion of the health care system, it's time to put patients and qualified doctors and nurses back in control. That's why over 800,000 California voters, led by nurses and consumer advocates, have joined to pass Proposition 216, the Patient Protection Act.

Prop. 216 will:

1. Outlaw bonuses to doctors and nurses for withholding treatment.
2. Ban "gag rules" that restrict physicians and nurses from discussing treatment options with patients.
3. Establish safe staffing levels in hospitals, clinics and nursing homes; ban the use of untrained personnel for patient care.
4. End arbitrary denial of medical treatment; require a written explanation and qualified second opinion before care may be denied.
5. Establish a self-funded, independent consumer watchdog group; require industry disclosure of safety and financial data.
6. Ban the sale of your private medical records without your permission.
7. Require detailed justification for premium increases.

Proposition 216 will save taxpayers money. According to the official State Legislative Analyst, the health care industry will pay all the costs of enforcing the initiative through penalty fees on wildly-excessive HMO salaries, multi-billion dollar hospital mergers and medical service reductions. Also, these fees will help cover the costs of crucial community programs such as emergency care and contagious disease prevention.

Voter Alert #1. If Prop. 216 passes, insurers will have to cut out waste and excess profits and reduce overhead, which consumes 31 cents of every $1 in premiums policyholders pay. So the giant health corporations are spending millions to frighten voters about "big government, more taxes." Don't be misled. Under Prop. 216, taxpayers, businesses and California's economy benefit.

Voter Alert #2. Many voters are confused by Proposition 214, a different initiative. Only Prop. 216 establishes a consumer watchdog to protect against insurance abuse. And only Prop. 216 will prevent industry-funded politicians from easily overriding these voter-approved reforms in the Legislature.

The Patient Protection Act will best protect you and your family against unsafe and costly medical care. To guarantee that every reform in Prop. 216 becomes law, it must get more "Yes" votes than Prop. 214. Remember, vote "Yes" *only* on Prop. 216.

RALPH NADER
Consumer Advocate

DR. HELEN RODRIGUEZ-TRIAS, M.D.
Former President, American Public Health Association

KIT COSTELLO, R.N.
President, California Nurses Association

Rebuttal to Argument in Favor of Proposition 216

This initiative, like Proposition 214, is not what it seems. It's a special interest trick that contains "patient protection" provisions THAT ARE ALREADY LAW. It doesn't give consumers added protection and it's not real health care reform.

Existing laws already ensure that doctors must advocate for patients; that hospital staffing be safe and adequate; and that health care providers provide information to patients about their health care needs. Health plans and HMOs are ALREADY REQUIRED to base medical decisions on written criteria developed by doctors.

Take out the bogus "reforms" in 216 and what is left? Costly new bureaucratic rules, special-interest job protection, and higher health care costs for consumers and taxpayers.

Proposition 216 DOES NOT provide health insurance coverage to a single Californian. It assesses BILLIONS OF DOLLARS IN NEW TAXES, which will lead to huge increases in health care costs for consumers without improving quality. Prop. 216 REQUIRES that these taxes be used for GOVERNMENT BUREAUCRATS to administer the initiative.

The Legislative Analyst says 216 will cost taxpayers HUNDREDS OF MILLIONS per year. Economists predict it could lead to a 15% increase in health insurance costs for California families. Trial lawyers will be able to file new frivolous lawsuits under both Props. 216 and 214.

Proposition 216 makes California's health care system worse. It raises health insurance and taxpayer costs by BILLIONS OF DOLLARS per year, but it DOESN'T EXTEND INSURANCE COVERAGE TO UNINSURED CALIFORNIANS.

VOTE NO on Propositions 216 and 214.

SISTER CAROL PADILLA, R.N.
Daughter of Charity

SALLY C. PIPES
Economist, Pacific Research Institute of Public Policy

GORDON JONES
Legislative Director, The Seniors Coalition

Health Care. Consumer Protection. Taxes on Corporate Restructuring. Initiative Statute. 216

Argument Against Proposition 216

PROPOSITIONS 216 and 214 HAVE THIS IN COMMON: THEY'RE BAD MEDICINE FOR CALIFORNIA. They're special interest measures that won't deliver real health care reform. Instead, they make things worse. We need health care reform, but 216 and 214 are WRONG SOLUTIONS.

Real health care reform should make insurance more affordable and reduce the number of uninsured Californians. Proposition 216 does the opposite—it could DRAMATICALLY RAISE HEALTH INSURANCE costs, leading to FEWER PEOPLE COVERED.

Californians from every walk of life, including Republicans, Democrats and Independents, nurses, physicians, hospitals, seniors, consumers, taxpayers, and businesses oppose Proposition 216.

SPONSORED BY SPECIAL INTERESTS

Like Proposition 214, Prop. 216 is a special interest measure designed to help its sponsors. The nurses union co-sponsoring 216 will have more health care workers to represent because of Proposition 216's quotas. These quotas could cost consumers hundreds of millions of dollars in higher health charges and will not improve health care. Trial lawyers stand to make MILLIONS OF DOLLARS in attorney fees for filing more frivolous health care lawsuits permitted by 216.

HAMMERS TAXPAYERS

Proposition 216 is DEVASTATING TO TAXPAYERS. The independent Legislative Analyst, says 216 could cost taxpayers SEVERAL HUNDRED MILLION DOLLARS per year in administrative costs . . . millions MORE to provide coverage to government workers . . . millions more in lost tax revenues.

Proposition 216 also enacts FOUR NEW TAXES on health care businesses that could cost BILLIONS of dollars. Every consumer in California will ultimately pay!

"216 is a disaster for taxpayers. According to an independent study, in LA County alone, it's nearly $60 million more to provide health coverage to government workers. Statewide, we'll pay hundreds of millions in higher costs."

—California Taxpayer's Association

HIGHER HEALTH COSTS

Health costs will skyrocket under Proposition 216. Independent economists estimate premiums could increase up to 15%, COSTING CONSUMERS BILLIONS OF DOLLARS. Higher costs hit families and small businesses hardest. Many could be forced to lay off workers and reduce benefits; some could be forced to close. Proposition 216 could mean 60,000 LOST CALIFORNIA JOBS.

Employees pay the highest price:

"The small company where I work can't afford those higher costs. They'll be forced to drop our coverage or pass the costs to employees like me. I can't afford 216."

—Jane Gonzales, Office Manager, Los Altos

EXCESSIVE GOVERNMENT INVOLVEMENT

Prop. 216 requires dozens of new rules, regulations and government functions, employing a legion of government bureaucrats. For instance, 216 gives bureaucrats power to mandate staffing levels in every hospital, doctor's office and clinic. It even requires DAILY COMPLIANCE REPORTS.

"That's too much government! Imagine the cost of government bureaucrats hovering over every health care provider office in California."

—Lew Uhler, National Tax Limitation Committee

CAN'T BE FIXED

When was the last time a ballot initiative turned out exactly as promised? Prop. 216 makes it almost impossible to fix problems when they develop. Californians will be stuck with a costly, flawed initiative.

Proposition 216 is phony health care reform sponsored by special interests. It will cost taxpayers and consumers billions of dollars.

SISTER KRISTA RAMIREZ, R.N.
Sisters of Mercy

WILLIAM S. WEIL, M.D.
Cedars Sinai Health Associates

SALLY C. PIPES
Economist, Pacific Research Institute of Public Policy

Rebuttal to Argument Against Proposition 216

There they go again.

Insurance companies, HMOs and other giant health corporations want to divert your attention from their fraudulent medical practices and their excessive profits. That's why they resort to their usual scare tactics: government! taxes!

But their deceptions, tricks and phony statistics won't work this time because voters know the facts.

Only Prop. 216 . . .

. . . is backed by 836,000 California voters, 25,000 California Nurses Association members, Ralph Nader and other leading consumer advocates, and by thousands of families who know firsthand the tragic costs of HMO greed-driven cutbacks.

. . . WILL COST TAXPAYERS NOTHING. The official Legislative Analyst confirms that penalties on HMO practices that reduce quality care will cover 100% of all enforcement costs.

. . . REDUCES GOVERNMENT by establishing a self-funded, independent, nonprofit consumer watchdog group to monitor HMOs.

. . . BLOCKS ARBITRARY PREMIUM INCREASES and specifically prohibits passing on costs of safeguarding quality care.

. . . SAVES CALIFORNIA BUSINESSES BILLIONS in lost productivity by protecting employee health; experts estimate a $14 billion benefit to California's economy with Prop. 216.

. . . is REAL CONSUMER PROTECTION with SHARP ENFORCEMENT TEETH. Amendments require a tough two-thirds vote by state lawmakers, preventing sabotage by HMO and insurance lobbyists in Sacramento.

The health industry is spending tens of millions against Prop. 216. They've even imported campaign consultants from Washington, D.C. What are they afraid of? 216 will force them to provide safe health care. 216 puts patients first, before profits. The giant HMOs are desperate because the facts—and informed voters—support Prop. 216.

HARVEY ROSENFIELD
Executive Director, Foundation for Taxpayer and Consumer Rights

DR. SHELDON MARGEN, M.D.
Founder, University of California Wellness Newsletter

LINDA ROSS
Co-Chair, California Committee of Small Business Owners

Top Income Tax Brackets. Reinstatement. Revenues to Local Agencies. Initiative Statute.

Official Title and Summary Prepared by the Attorney General

TOP INCOME TAX BRACKETS. REINSTATEMENT. REVENUES TO LOCAL AGENCIES. INITIATIVE STATUTE.

- Retroactively reinstates 10% and 11% tax rates, respectively, on taxpayers with taxable income over $115,000 and $230,000 (current estimates), and joint taxpayers with taxable income over $230,000 and $460,000 (current estimates).
- Requires Controller to apportion revenue from reinstated tax rates among counties.
- Requires counties to allocate that revenue to local government agencies based on each local agency's proportionate share of property taxes which must be transferred to schools and community colleges under 1994 legislation.
- Prohibits future reduction of local agency's proportionate share of property taxes.

Summary of Legislative Analyst's Estimate of Net State and Local Government Fiscal Impact:

- Annual increase in state personal income tax revenues of about $700 million, with about half the revenues allocated to schools and half to other local governments.

Analysis by the Legislative Analyst

BACKGROUND

In the early 1990s California faced a severe recession, which resulted in significant shortfalls in the state budget. In response, the state acted to increase revenues and reduce expenditures. As one way of increasing revenues, the state imposed a temporary income tax rate increase in 1991, adding 10 percent and 11 percent rates for the highest-income taxpayers. This temporary tax increase ended in 1995.

In addition, the state reduced its expenditures by lowering the share of school funding paid by the state and raising the share paid by local property taxes. To do this, the state shifted property tax revenues *from* counties, cities, and special districts *to* schools. This action did not change the overall level of spending on schools. Instead, it reduced the amount the state needed to pay from its revenues in support of schools.

The loss of property tax revenues lowered the amount of money available to local governments for programs such as parks, libraries, social services, and public safety. Overall, the state shifted about $3.6 billion in property tax revenues, reducing the amount of property tax revenues going to local governments each year by about 25 percent. These property tax revenue losses are partially offset by $1.6 billion in increased sales tax revenues as a result of the passage of Proposition 172 in 1993. These sales tax revenues are dedicated to local public safety programs.

PROPOSAL

This measure (1) reinstates, beginning with the 1996 tax year, the income tax increase for higher-income taxpayers that ended last year and (2) allocates the money from this tax increase to schools and local governments.

Personal Income Tax Rates. Under California's personal income tax, taxpayers pay different rates depending on their income. These rates currently vary from 1 percent to 9.3 percent. Individual taxpayers pay at the 9.3 percent rate on taxable income over about $32,000 and married couples pay 9.3 percent on taxable income over about $65,000. This measure would reinstate the 10 percent and 11 percent personal income tax rates. We estimate that under the measure an individual would pay at the 10 percent rate on taxable income between $115,000 and $230,000 and at a rate of 11 percent on taxable income over $230,000. A married couple would pay at the 10 percent rate on taxable income between $230,000 and $460,000, and at a rate of 11 percent on taxable income over $460,000.

The measure would affect about 1 percent of taxpayers in the state. These taxpayers currently pay approximately $6.5 billion, or 31 percent, of the total personal income taxes collected each year. The measure also restricts the ability of the state to reduce the income taxes paid by higher-income taxpayers in the future without a vote of the people.

Allocation to Schools. Under the State Constitution, increases in state General Fund revenues generally result in an increased level of funding for schools. We estimate that over the next several years schools would get about half of the additional money resulting from this tax increase.

Allocation to Local Governments. About half of the additional money raised by this tax increase would be allocated to local governments. The allocations would be based on the amount of money that a local government lost as a result of the property tax shifts (less the amount received in Proposition 172 sales tax revenue). The local share would be allocated as follows:

- 54 percent to counties.
- 22 percent to cities.
- 24 percent to special districts.

The measure also prohibits the state from shifting additional property tax revenues away from these local governments.

FISCAL IMPACT

This tax increase would raise state General Fund revenues by about $700 million, or 1.5 percent, each year. As noted above, about half of the funds would be allocated to schools and half to other local governments.

For text of Proposition 217 see page 107

217 Top Income Tax Brackets. Reinstatement. Revenues to Local Agencies. Initiative Statute.

Argument in Favor of Proposition 217

Why are taxpayers paying more in taxes while local services keep getting cut?

The answer is clear: each year since 1993, the Governor and Legislature have taken billions of property tax dollars from local governments to help balance the state budget.

At the same time, they intend to give a tax break to the wealthiest 1.2% of taxpayers, instead of restoring local services.

That's why the people put Proposition 217 on the ballot.

PROPOSITION 217 STOPS AN UNFAIR TAX BREAK.

Unless Proposition 217 passes, the two top brackets on the state income tax will expire this year. That means only the wealthiest 1.2% of taxpayers will get a $700 million tax cut.

PROPOSITION 217 IS NOT A TAX INCREASE: It merely keeps in place the two highest state income tax brackets that apply to families with taxable incomes over $230,000 and $460,000—*after* taking all their deductions. These brackets, at 10% and 11%, would otherwise decline to 9.3%. That's the same rate paid by families with taxable income of $65,000.

No other taxpayers are getting a tax cut. Just the top 1.2%. This is especially unfair at a time when the gap between the wealthiest Americans and everyone else is getting larger.

PROPOSITION 217 PROTECTS OUR SCHOOLS.

California already has the most crowded classrooms in the country. The last thing we need is to be taking money away from our schools. Proposition 217 will ensure that up to $500 million will stay in school budgets rather than go to the wealthy in a tax cut.

By passing Proposition 217, voters will prevent any loss of revenues for our schools.

PROPOSITION 217 PARTIALLY RESTORES LOCAL REVENUES.

Since 1993, Sacramento has taken billions of dollars in local taxes from local services—and keeps on taking more.

The results? Parks close. Libraries close or cut back their hours. Criminals are let out of overcrowded jails. Child protection services are cut. Police departments are understaffed.

To make up for some of the losses, voters have passed sales taxes and local taxes, which fall on ordinary taxpayers.

Proposition 217 helps fill the gap, without a tax increase. After restoring funds that would be lost to schools, it automatically returns the revenues from continuing the top brackets back to local government.

Each local government will receive revenue in direct proportion to the amount taken away by the state. This revenue *must* go to schools and to restore local services in proportion to local losses.

Proposition 217 also prohibits the state from taking any additional property tax revenues away from local government in the future.

VOTE YES ON PROPOSITION 217.

Proposition 217 restores a little fiscal sanity to California. It simply continues tax rates already in place on the wealthiest taxpayers to protect our schools and restore more of the local funding the state took away. That means restored funding for public safety, for parks, for libraries, and for child protection, all of which have suffered since 1993.

FRAN PACKARD
President, League of Women Voters of California

MARY BERGAN
President, California Federation of Teachers

DANIEL TERRY
President, California Professional Firefighters

Rebuttal to Argument in Favor of Proposition 217

California's economy finally is on the mend, creating jobs 1.5 times faster than the national average.

Increased state tax revenues from this economic recovery have been used to boost school spending by $3 billion. Local government received $100 million more for law enforcement.

WHY DO PROPOSITION 217 PROMOTERS WANT TO THROW A MONKEY WRENCH INTO THIS EXPANDING ECONOMY?

Eighty percent of California's businesses pay personal, *NOT* corporate, income taxes. Most are small businesses, and could be hurt by Proposition 217.

Small business is driving job growth in this state. It's dumb to attack these job creators.

PROPOSITION 217 *IS* A RETROACTIVE TAX INCREASE!

We just don't need another tax. With Proposition 217, California would effectively have the HIGHEST PERSONAL INCOME TAX RATE IN THE COUNTRY.

MORE MONEY DOWN A BUREAUCRATIC BLACK HOLE

Despite claims it "protects schools," PROPOSITION 217 CONTAINS NO GUARANTEE that one penny would be used to reduce classroom sizes. The promoters own campaign materials state: "IT IS MOST LIKELY THAT THE MEASURE WILL HAVE NO INITIAL IMPACT ON SCHOOLS . . ."

They promise funds for libraries, parks and police. But there's no accountability how local governments would spend the money. Los Angeles County, for example, spent $694,532 to lobby Sacramento in the first quarter of 1996—more than all the other industry, labor and special interest groups.

BEFORE TAXES ARE RAISED ANOTHER DIME, THE BUREAUCRATS SHOULD TIGHTEN THEIR BELTS, CUT WASTE AND DO MORE WITH THE $62 BILLION THEY ALREADY HAVE!

TAXES ALREADY ARE TOO HIGH!

NO on 217

KEVIN WRIGHT CARNEY
School Boardmember, Antelope Valley Union High School District

JOHN P. NEAL
Chairman, California Chamber of Commerce Small Business Committee

RICHARD T. DIXON
Mayor, City of Lake Forest

Top Income Tax Brackets. Reinstatement. Revenues to Local Agencies. Initiative Statute. 217

Argument Against Proposition 217

TAXES IN CALIFORNIA ALREADY ARE TOO HIGH! But if Proposition 217 passes, California would effectively have the highest personal income tax rate in the country.

RETROACTIVE TAX INCREASE

Proposition 217 imposes a retroactive and PERMANENT TAX INCREASE on income earned since January 1, 1996.

HURTS SMALL BUSINESS

Its promoters may have intended to soak the rich, but Proposition 217 would really hurt the state's small business owners. Eighty (80) percent of California's businesses pay personal, NOT corporate income taxes.

And that hurts all of us!

HIGHER TAXES FOR SMALL BUSINESS MEAN LESS MONEY FOR JOBS AND SALARIES

Small businesses are the engine driving California's economic recovery. In fact, small companies are creating 60% of all our new jobs. It just doesn't make sense to saddle these job-creators with higher taxes.

If Proposition 217 passes, some companies may decide enough is enough and move their businesses and the jobs they provide OUT of California to states with lower income tax rates.

NO GUARANTEES OR ACCOUNTABILITY

Proposition 217 contains absolutely no guarantees or accountability on how the new tax money will be spent.

Some claim up to 60 percent of the new tax money would be spent on education. But no one knows for sure.

Proposition 217 promoters do not provide any guarantees on how much of this new tax would be spent on schools. Neither do they account for just how that money would be spent. YOUR TAX MONEY COULD END UP PAYING FOR BUREAUCRATS AND ADMINISTRATORS, NOT ON THE KIDS AND IN THE CLASSROOM.

Make no mistake, PROPOSITION 217 IS JUST MORE MONEY DOWN A BUREAUCRATIC BLACK HOLE.

State and local government spending per person in California already is fifteen percent higher than the national average. *THE LAST THING WE NEED TO DO IS SEND ANY MORE MONEY TO THE SACRAMENTO POLITICIANS.*

BEFORE TAXES ARE RAISED ANOTHER DIME, THE BUREAUCRATS SHOULD TIGHTEN THEIR BELTS, CUT THE WASTE IN GOVERNMENT AND ACCOMPLISH MORE WITH THE BILLIONS OF OUR TAX DOLLARS THEY ALREADY HAVE.

PROPOSITION 217 ALSO MESSES WITH OUR PROPERTY TAXES!

Under current law, property taxes pay for public services provided by local agencies where the property is located.

But under Proposition 217, if your city attracts more new employers or new homes, it would be penalized by losing its fair share of property taxes. It could also lead to higher fees on new home buyers and new businesses

Residents of a new city could be subject to DOUBLE TAXATION. They would continue to pay property taxes, but none of these would finance police, fire and other services for residents of the new city. Instead, other local taxes and fees would have to be found.

Proposition 217 may be well-intended, but it contains too many provisions with uncertain and even potentially dangerous economic consequences. Proposition 217 is confusing, tries to tackle too many issues and would end up hurting small businesses the most.

TAXES IN CALIFORNIA ALREADY ARE TOO HIGH!
VOTE NO on 217!

LARRY McCARTHY
President, California Taxpayers' Association

RUTH LUNQUIST
Small Business Owner (Herald Printing)

MARTYN B. HOPPER
California State Director, National Federation of Independent Business (NFIB)

Rebuttal to Argument Against Proposition 217

The opponents are misleading on all counts. Why? Because they are trying to protect a $700 million tax break for the wealthiest 1.2% of taxpayers that will hurt our schools, law enforcement, libraries and other local services.

They say taxes are too high. FACT: Cutting taxes for the top 1.2%—and no one else—means more of the tax load will be shifted onto ordinary taxpayers.

They call 217 a "retroactive tax increase." FACT: 217 continues the top income tax brackets without change. Taxes due in April 1997 will be paid at the same rate as in April, 1996.

They say 217 "hurts small business." FACT: There are millions of small businesses, but *217 affects a total of only 169,000 personal income taxpayers* whose incomes average $488,000 per year.

They say taxes on the wealthy mean fewer jobs. FACT: The 11% top income tax bracket was established by Governor Reagan in 1973, and has been in effect for all but four years since. California has had enormous business expansion and job growth since 1973.

They say there are no guarantees for education. FACT: Proposition 98 and the California Constitution guarantee the revenues for schools. That's why parents and educators support Proposition 217.

They say 217 affects property taxes. FACT: It does, *in one way only*. It prevents the State from taking more property taxes from local governments. That protects public safety and other local services.

Consider the facts. Then, VOTE YES ON PROPOSITION 217.

STEVEN H. CRAIG
President, Peace Officers Research Association of California

CAROL RULEY
President, California State Parent Teacher Association (PTA)

LENNY GOLDBERG
Executive Director, California Tax Reform Association

Voter Approval for Local Government Taxes. Limitations on Fees, Assessments, and Charges. Initiative Constitutional Amendment.

Official Title and Summary Prepared by the Attorney General

VOTER APPROVAL FOR LOCAL GOVERNMENT TAXES. LIMITATIONS ON FEES, ASSESSMENTS, AND CHARGES. INITIATIVE CONSTITUTIONAL AMENDMENT.

- Limits authority of local governments to impose taxes and property-related assessments, fees, and charges. Requires majority of voters approve increases in general taxes and reiterates that two-thirds must approve special tax.
- Assessments, fees, and charges must be submitted to property owners for approval or rejection, after notice and public hearing.
- Assessments are limited to the special benefit conferred.
- Fees and charges are limited to the cost of providing the service and may not be imposed for general governmental services available to the public.

Summary of Legislative Analyst's Estimate of Net State and Local Government Fiscal Impact:

- Short-term local government revenue losses of more than $100 million annually.
- Long-term local government revenue losses of potentially hundreds of millions of dollars annually.
- Local government revenue losses generally would result in comparable reductions in spending for local public services.

Analysis by the Legislative Analyst

OVERVIEW

Local governments provide many services to people and businesses in their communities. To pay for these services, local governments raise revenues by imposing fees, assessments, and taxes. This constitutional measure would make it more difficult for local governments to raise these revenues. As a result, this measure would:

- Reduce the amount of fees, assessments, and taxes that individuals and businesses pay.
- Decrease spending for local public services.

PROPOSAL

This measure would constrain local governments' ability to impose fees, assessments, and taxes. The measure would apply to all cities, counties, special districts, redevelopment agencies, and school districts in California.

Fees

Current Practice. Local governments charge fees to pay for many services to their residents. Some of these fees pay for services to property, such as garbage collection and sewer service. Fees are also called "charges."

Local governments often establish several fee amounts for a service, each based on the approximate cost of providing the service to different types of properties (such as commercial, industrial, or residential property). Local governments usually send monthly bills to property owners to collect these fees, although some fees are placed on the property tax bill. Local governments generally hold public hearings before creating or increasing such a fee, but do not hold elections on fees.

Proposed Requirements for Property-Related Fees. This measure would restrict local governments' ability to charge "property-related" fees. (Fees for water, sewer, and refuse collection service probably meet the measure's definition of a property-related fee. Gas and electric fees and fees charged to land developers are specifically exempted.)

Specifically, the measure states that *all* local property-related fees must comply by July 1, 1997, with the following restrictions:

- No property owner's fee may be more than the cost to provide service to that property owner's land.
- No fee may be charged for fire, police, ambulance, library service, or any other service widely available to the public.
- No fee revenue may be used for any purpose other than providing the property-related service.
- Fees may only be charged for services immediately available to property owners.

In addition, the measure specifies that before adopting a *new* property-related fee (or increasing an *existing* one), local governments must: mail information about the fee to every property owner, reject the fee if a majority of the property owners protest in writing, and hold an election on the fee (unless it is for water, sewer, or refuse collection service).

Taken together, these fee restrictions would require local governments to reduce or eliminate some existing fees. Unless local governments increased taxes to replace these lost fee revenues, spending for local public services likely would be decreased. The measure's requirements would also expand local governments' administrative workload. For example, local governments would have to adjust many property-related fees, potentially (1) setting them on a block-by-block or parcel-by-parcel basis and (2) ending programs that allow low-income people to pay reduced property-related fees. Local governments would also have to mail information to every property owner and hold elections.

Assessments

Current Practice. Local governments charge assessments to pay for projects and services that benefit specific properties. For example, home owners may pay assessments for sidewalks, streets, lighting, or recreation programs in their neighborhood. Assessments are also called "benefit assessments," "special assessments," "maintenance assessments," and similar terms. Local governments typically place assessment charges on the property tax bill.

To create an assessment, state laws require local governments to determine which properties would benefit from a project or service, notify the owners, and set assessment amounts based on the approximate benefit property owners would receive. Often, the rest of the community or region also receives some general benefit from the project or service, but does not pay a share of cost. Typical assessments that provide general benefits include fire, park, ambulance, and mosquito control assessments. State laws generally require local governments to reject a proposed assessment if more than 50 percent of the property owners protest in writing.

Some local governments also levy "standby charges," which are similar to assessments. Standby charges commonly finance water and sewer service expansions to new households and businesses. (The measure treats standby charges as assessments.)

Proposed Requirements for Assessments. This measure would place extensive requirements on local governments charging assessments. Specifically, the measure requires all *new* or *increased* assessments—and some *existing* assessments—to meet four conditions.

- First, local governments must estimate the amount of "special benefit" landowners receive—or would receive—from a project or service. Special benefit is defined as a particular benefit to land and buildings, not a general benefit to the public at large or a general increase in property values. If a project provides both special benefits *and* general benefits, a local government may charge landowners only for the cost of providing the special benefit. Local government must use general revenues (such as taxes) to pay the remaining portion of the project or service's cost. In some cases, local government may not have sufficient revenues to pay this cost, or may choose not to pay it. In these cases, a project or service would not be provided.

- Second, local governments must ensure that no property owner's assessment is greater than the cost to provide the improvement or service to the owner's property. This provision would require local governments to examine assessment amounts in detail, potentially setting them on a parcel-by-parcel or block-by-block basis.
- Third, local governments must charge schools and other public agencies their share of assessments. Currently, public agencies generally do not pay assessments.
- Finally, local governments must hold a mail-in election for each assessment. Only property owners and any renters responsible for paying assessments would be eligible to vote. Ballots cast in these elections would be weighted based on the amount of the assessment the property owner or renter would pay. For example, if a business owner would pay twice as much assessment as a homeowner, the business owner's vote would "count" twice as much as the homeowner's vote.

Figure 1 summarizes the existing assessments that would be exempt from the measure's requirements. We estimate that more than half of all existing assessments would qualify for an exemption. All other existing assessments must meet the measure's requirements—including the voter approval requirement—by July 1, 1997.

Figure 1

Existing Assessments Exempt from the Measure's Requirements

- Assessments previously approved by voters—or by all property owners at the time the assessment was created.
- Assessments where all the funds are used to repay bond obligations.
- Assessments where all the funds are used to pay for sidewalks, streets, sewers, water, flood control, drainage systems or, "vector control" (such as mosquito control).

Taxes

Current Practice. Local governments typically use taxes to pay for general government programs, such as police and fire services. Taxes are "general" if their revenues can be used to pay for many government programs, rather than being reserved for specific programs. Proposition 62—a statutory measure approved by the voters in 1986—requires new local general taxes to be approved by a majority vote of the people. Currently, there are lawsuits pending as to whether this provision applies to cities that have adopted a local charter, such as Los Angeles, Long Beach, Sacramento, San Jose, and many others.

Proposed Requirements for Taxes. The measure states that all *future* local general taxes, including those in cities with charters, must be approved by a majority vote of the people. The measure also requires *existin* local general taxes established after December 31, 1994, without a vote of the people to be placed before the voters within two years.

Other Provisions

Burden of Proof. Currently, the courts allow local governments significant flexibility in determining fee and assessment amounts. In lawsuits challenging property fees and assessments, the taxpayer generally has the "burden of proof" to show that they are not legal. This measure shifts the burden of proof in these lawsuits to local government. As a result, it would be easier for taxpayers to win lawsuits, resulting in reduced or repealed fees and assessments.

Initiative Powers. The measure states that Californians have the power to repeal or reduce any local tax, assessment, or fee through the initiative process. This provision broadens the existing initiative powers available under the State Constitution and local charters.

FISCAL IMPACT

Revenue Reductions

Existing Revenues. By July 1, 1997, local governments would be required to reduce or repeal existing property-related fees and assessments that d not meet the measure's restrictions on (1) fee ana assessment amounts or (2) the use of these revenues. The most likely fees and assessments affected by these provisions would be those for: park and recreation programs, fire protection, lighting, ambulance, business improvement programs, library, and water service. Statewide, local government revenue reductions probably would exceed $100 million annually. The actual level of revenue reduction would depend in large part on how the courts interpret various provisions of the measure. In addition, because local governments vary significantly in their reliance upon fees and assessments, the measure's impact on individual communities would differ greatly.

Within two years, local governments also would be required to hold elections on some recently imposed taxes and existing assessments. The total amount of these taxes and assessments is unknown, but probably exceeds $100 million statewide. If voters do not approve these existing taxes and assessments, local governments would lose *additional* existing revenues.

New Revenues. The measure's restrictions and voter-approval requirements would constrain new and increased fees, assessments, and taxes. As a result, local government revenues in the future would be lower than they would be otherwise. The extent of these revenue reductions would depend on court interpretation of the measure's provisions and local government actions to replace lost revenues.

Summary of Revenue Reductions. In the short term, local government revenues probably would be reduced by more than $100 million annually. Over time, cal government revenues would be significantly lower ıan they would otherwise be, potentially by hundreds of millions of dollars annually. Individual and business payments to local government would decline by the same amount. In general, these local government revenue losses would result in comparable reductions in spending for local public services.

Cost Increases

Local governments would have significantly increased costs to hold elections, calculate fees and assessments, notify the public, and defend their fees and assessments in court. These local increased costs are unknown, but could exceed $10 million initially, and lesser amounts annually after that.

School and community college districts, state agencies, cities, counties, and other public agencies would have increased costs to pay their share of assessments. The amount of this cost is not known, but could total over $10 million initially, and increasing amounts in the future.

For text of Proposition 218 see page 108

218 Voter Approval for Local Government Taxes. Limitations on Fees, Assessments, and Charges. Initiative Constitutional Amendment.

Argument in Favor of Proposition 218

VOTE YES ON PROPOSITION 218. IT WILL GIVE YOU THE RIGHT TO VOTE ON TAX INCREASES!

Proposition 218 guarantees your right to vote on local tax increases—even when they are called something else, like "assessments" or "fees" and imposed on homeowners.

Proposition 218 guarantees your right to vote on taxes imposed on your water, gas, electric, and telephone bills.

Proposition 218 does NOT prevent government from raising and spending money for vital services like police, fire and education. If politicians want to raise taxes they need only convince local voters that new taxes are really needed.

Proposition 218 simply extends the long standing constitutional protection against politicians imposing tax increases without voter approval.

After voters passed Proposition 13, politicians created a loophole in the law that allows them to raise taxes without voter approval by calling taxes "assessments" and "fees."

Once this loophole was created, one lawyer working with politicians wrote, assessments "are now limited only by the limits of human imagination."

How imaginative can the politicians be with assessments? Here are a few examples among thousands:

- A view tax in Southern California—the better the view of the ocean you have the more you pay.
- In Los Angeles, a proposal for assessments for a $2-million scoreboard and a $6-million equestrian center to be paid for by property owners.
- In Northern California, taxpayers 27 miles away from a park are assessed because their property supposedly benefits from that park.
- In the Central Valley, homeowners are assessed to refurbish a college football field.

TAXPAYERS HAVE *NO RIGHT TO VOTE* ON THESE TAX INCREASES AND OTHERS LIKE THEM UNLESS PROPOSITION 218 PASSES!

Proposition 218 will significantly tighten the kind of benefit assessments that can be levied.

Here are examples of why fees and assessments and other nonvoted taxes are so unfair:

- The poor pay the same assessments as the rich. An elderly widow pays exactly the same on her modest home as a tycoon with a mansion.
- There are now over 5,000 local districts which can impose fees and assessments without the consent of local voters. Special districts have increased assessments by over 2400% over 15 years. Likewise, cities have increased utility taxes 415% and raised benefit assessments 976%, a ten-fold increase.

Non-voted taxes on electricity, gas, water, and telephone services hit renters and homeowners hard.

And, retired homeowners get hit doubly hard!

To confirm the impact of fees and assessments on you, look at your property tax bill. You will see a growing list of assessments imposed without voter approval. The list will grow even longer unless Proposition 218 passes.

Proposition 218 will allow you and your neighbors—not politicians—to decide how high your taxes will be. It will allow those who pay assessments to decide if what they are being asked to pay for is worth the cost.

FOR THE RIGHT TO VOTE ON TAXES, VOTE YES C PROPOSITION 218.

JOEL FOX
President, Howard Jarvis Taxpayers Association

JIM CONRAN
President, Consumers First

RICHARD GANN
President, Paul Gann's Citizens Committee

Rebuttal to Argument in Favor of Proposition 218

PROPOSITION 218 IS NO FALSE ALARM . . . IT HURTS

Propositions can deceive, so carefully judge who you believe.

Beware of wild claims for new "constitutional rights" and people who pretend concern about widows and orphans.

Read Proposition 218 yourself and see how large corporations, big landowners and foreign interests gain more voting power than YOU.

Promoters say you get "tax reform" . . . you may actually get serious cutbacks in local service and FEWER VOTING RIGHTS for millions of California citizens.

Sometimes we hear hysterical warnings about bad things that never occur . . . Proposition 218 is a REAL threat. On Proposition 218 consider the harm to EXISTING local services, not vague future threats:

- May reduce CURRENT funding for police, fire and emergency medical programs across California.
- Worsens SCHOOL CROWDING by making public schools pay NEW TAXES, cutting classroom teaching.
- Could eliminate LifeLine utility support for SENIORS and disabled citizens.

CONSTITUTIONAL POWER SHIFT.

Proposition 218 etches this into the state Constitution:

- Blocks 3 million Californians from voting on tax assessments. The struggling young couple renting a small home, WILL HAVE NO VOTE on the assessments imposed on the house they rent.
- Grants special land interests more voting power than average homeowners. The "elderly widow" promoters cite will be banned from voting if she is a renter, or her voting power dwarfed by large property owners.
- Gives non-citizens voting rights on your community taxes.

Proposition 218 is a great deal for wealthy special interests. But it's a bad deal for the average taxpayer, homeowner and renter.

HOWARD OWENS
Congress of California Seniors

LOIS TINSON
President, California Teachers Association

RON SNIDER
President, California Association of Highway Patrolmen

Voter Approval for Local Government Taxes. Limitations on Fees, Assessments, and Charges. Initiative Constitutional Amendment.

218

Argument Against Proposition 218

PROPOSITION 218 DILUTES VOTING RIGHTS, HURTS LOCAL SERVICES

In the disguise of tax reform, Proposition 218's Constitutional Amendment REDUCES YOUR VOTING POWER and gives huge voting power to corporations, foreign interests and wealthy land owners.

It cuts police, fire, library, park, senior, and disabled services and diverts funds needed for classroom-size reductions.

Read Proposition 218 carefully—it's a wolf, not a lamb!

YOU LOSE RIGHTS; CORPORATIONS, DEVELOPERS, NON-CITIZENS GAIN VOTING POWER

Section 4(e) of Proposition 218 changes the Constitution to give corporations, wealthy landowners and developers MORE VOTING POWER THAN HOMEOWNERS. It lets large outside interests control community taxes—against the will of local citizens.

EXAMPLE: An oil company owns 1000 acres, you own one acre; the oil corporation gets 1000 times more voting power than you.

While Prop. 218 gives voting power to outside interests, Section 4(g) denies voting rights to more than 3,000,000 California renters.

Reducing American citizens' Constitutional rights, it grants voting rights to corporations and absentee landowners—even foreign citizens.

EXAMPLE: A shopping center owned by a foreign citizen is worth 100 times as much as your home; that person gets 100 imes more voting power than you!

Every citizen should have the right to vote if a community is voting on local assessments for police, fire, emergency medical and library programs. It's unfair to give voting power to non-citizens, big landowners and developers, yet deny it to millions of Californians.

MAY CUT LOCAL POLICE, FIRE PROTECTION

Section 6(b)(5) eliminates vital funding sources for local police, fire, emergency medical and library services.

Proposition 218 goes too far—may forbid emergency assessments for earthquakes, floods and fires.

Don't handcuff police and firefighters. The California Police Chiefs Association, Fire Chiefs Association and California Professional Firefighters ask you to vote NO.

The impartial Legislative Analyst's report shows how Proposition 218 could impede LifeLine support for the elderly and disabled. It prohibits seniors and disabled from receiving needed utility services unless they pay all costs themselves.

Proposition 218 cuts more than $100 million from local services, yet wastes tens of millions each year by changing the Constitution to require 5,000 local elections even if local citizens don't want an election . . . even if the election cost is more than the potential revenue.

MAKES SCHOOL CROWDING WORSE

California teachers oppose Proposition 218 because Section 4(a) imposes a new tax on public school property, diverting millions from classroom programs to pay for non-school expenses.

California already has the most crowded classrooms in America (dead last of 50 states). Proposition 218 makes school crowding worse.

SHELL GAME

This measure takes a few good ideas, but twists and perverts them. It cripples the best local services and puts more power into the hands of special interests and non-citizens.

Proposition 218 goes too far. Assessment laws DO need improvement, but Proposition 218 is the wrong way to do it. It does more harm than good, restricting our voting rights, hurting schools, seniors and public safety programs.

Please vote NO on Proposition 218.

FRAN PACKARD
President, League of Women Voters of California

CHIEF RON LOWENBERG
President, California Police Chiefs' Association

CHIEF JEFF BOWMAN
President, California Fire Chiefs' Association

Rebuttal to Argument Against Proposition 218

Arguments against Proposition 218 are misleading and designed to confuse voters. In truth:

1. Proposition 218 expands your voting rights. It CONSTITUTIONALLY GUARANTEES your right to vote on taxes.
2. Under Proposition 218, only California registered voters, including renters, can vote in tax elections. Corporations and foreigners get no new rights.
3. Current law already allows property owners, including nonresidents, to act on property assessments based on the assessment amount they pay. This is NOT created by Proposition 218.
4. "Lifeline" rates for elderly and disabled for telephone, gas, and electric services are NOT affected.
5. Proposition 218 allows voter approved taxes for police, fire, education.

Proposition 218 simply gives taxpayers the right to vote on axes and stops politicians' end-runs around Proposition 13.

That's why ordinary taxpayers, seniors, parents, homeowners, renters, consumer advocates, support Proposition 218.

Under Proposition 218, officials must convince taxpayers that tax increases are justified. Politicians and special interest groups don't like this idea. But they can't win by saying "taxpayers should not vote on taxes," so they use misleading statements to confuse a simple question.

That question: DO YOU BELIEVE TAXPAYERS SHOULD HAVE THE RIGHT TO VOTE ON TAXES? If you answered "yes", VOTE YES ON PROPOSITION 218.

Read the nonpartisan, independent SUMMARY by the Attorney General, which begins "VOTER APPROVAL FOR LOCAL GOVERNMENT TAXES." And, by all means read your property tax bill, due out now. Then you'll know the truth.

FOR THE RIGHT TO VOTE ON TAXES, VOTE YES ON PROPOSITION 218!

CAROL ROSS EVANS
Vice-President, California Taxpayers Association

FELICIA ELKINSON
Past President, Council of Sacramento Senior Organizations

LEE PHELPS
Founder, Alliance of California Taxpayers and Involved Voters (ACTIV)

 Arguments printed on this page are the opinions of the authors and have not been checked for accuracy by any official agency.

AN OVERVIEW OF STATE BOND DEBT

This section of the ballot pamphlet provides an overview of the state's current bond debt. It also provides a discussion of the impact the bond measures on this ballot, if approved, would have on this debt level.

Background

What Is Bond Financing? Bond financing is a type of long-term borrowing used to raise money for specific projects. The state gets money by selling bonds to investors. The state must pay back the amount of the bonds along with interest.

The money raised from bonds primarily funds large capital outlay projects, such as prisons, schools, and colleges. The state uses bond financing mainly because these facilities are used for many years and their large dollar costs are difficult to pay for all at once.

General Fund Bond Debt. Most of the bonds the state issues are *general obligation* bonds. The General Fund makes debt payments on about three-fourths of these bonds. The remaining general obligation bonds (such as veterans' housing bonds) are self-supporting and, therefore, do not require General Fund support. The money in the General Fund comes primarily from state personal and corporate income taxes and sales taxes. General obligation bonds must be approved by the voters, and are placed on the ballot by legislative action or by initiative.

The state also issues bonds known as *lease-payment* bonds. These bonds do not require voter approval. The state has used these bonds to fund capital outlay projects in higher education, to construct prisons, and to build state offices. The General Fund also makes debt payments on these bonds.

What Are the Direct Costs of Using Bonds? The state's cost for using bonds depends primarily on the interest rate that is paid on the bonds and the number of years over which they are paid off. Most general obligation bonds are paid off over a period of 20 to 30 years. Assuming an interest rate of 6 percent, the cost of paying off bonds over 25 years is about $1.78 for each dollar borrowed—$1 for the dollar borrowed and 78 cents for the interest. These payments, however, are spread over the entire period, so the cost after adjusting for inflation is less. This is because future payments are made with cheaper dollars. Assuming a 3 percent future annual inflation rate, the cost of paying off the bonds in today's dollars would be about $1.30 for each $1 borrowed.

The State's Current Debt Situation

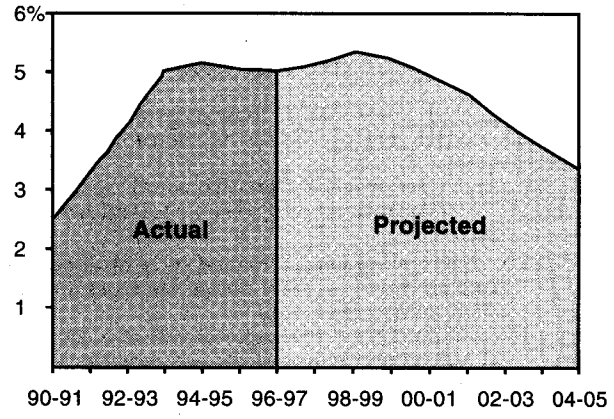
The Amount of State Debt. As of July 1, 1996, the state had about $20.2 billion of General Fund bond debt—$14.3 billion of general obligation bonds and $5.9 billion of lease-payment bonds. Also, about $9 billion of authorized bonds had not been sold because the projects to be funded by the bonds had not been undertaken.

Debt Payments. We estimate that payments on the state's General Fund bond debt will be around $2.4 billion during the 1996–97 fiscal year. As currently authorized bonds are sold, bond debt payments will increase to about $2.9 billion in 1999–00 and declin thereafter.

The level of debt payments expressed as a percentage of state General Fund revenues is referred to as the state's "debt ratio." Figure 1 shows actual and projected debt ratios from 1990–91 through 2004–05. The figure shows that as currently authorized bonds are sold, the state's debt ratio will increase to 5.3 percent in 1998–99 and decline thereafter.

Figure 1

State Debt Service Ratios [a]
1990-91 Through 2004-05



[a] Based on sales of *currently* authorized bonds.

Bond Measures Proposed for the Ballot

There are three general obligation bond measures on this ballot that total $2.1 billion:

- $995 million for water-related programs (Proposition 204).
- $700 million for local jails and juvenile justice facilities (Proposition 205).
- $400 million for veterans' housing loans (Proposition 206). These bonds are self-supporting and do not affect the state's debt ratio.

If these bond measures are approved, we estimate that the state's bond debt payments would remain at about $2.9 billion through 2001–02 and the state's General Fund bond debt would total $21.3 billion (after accounting for the sale of some authorized bonds and the retirement of some debt). The debt ratio would remain at the projected peak of 5.3 percent through 1999–00 and decline thereafter. Voter approval of additional bonds at future elections or legislative authorization of additional lease-payment bonds would increase the state's debt.

Proposition 204: Text of Proposed Law

This law proposed by Senate Bill 900 (Statutes of 1996, Chapter 135) is submitted to the people in accordance with the provisions of Article XVI of the Constitution.

This proposed law amends and adds sections to the Water Code; therefore, existing provisions proposed to be deleted are printed in ~~strikeout type~~ and new provisions proposed to be added are printed in *italic type* to indicate that they are new.

PROPOSED LAW

SECTION 1. Division 24 (commencing with Section 78500) is added to the Water Code, to read:

DIVISION 24. SAFE, CLEAN, RELIABLE WATER SUPPLY ACT

CHAPTER 1. SHORT TITLE AND FINDINGS AND DECLARATIONS

78500. This division shall be known and may be cited as the Safe, Clean, Reliable Water Supply Act.

78500.2. In placing this measure before the voters, the Legislature hereby finds and declares all of the following:

(a) The state faces a water crisis that threatens our economy and environment.

(b) The state's growing population has increasing needs for safe water supplies which are essential to the public health, safety, and welfare.

(c) It is of paramount importance that the limited water resources of the state be protected from pollution, and conserved and recycled whenever economically, environmentally, and technically feasible.

(d) The state should plan to meet the water supply needs of all beneficial uses of water, including urban, agricultural, and environmental, utilizing a wide range of strategies including water conservation and recycling, conjunctive use of surface and groundwater supplies, water transfers, and improvements in the state's water storage and delivery systems to meet the growing water needs of the state.

(e) This measure is a necessary first step toward providing for the state's long-term water supply requirements through a number of water management strategies.

(f) The San Francisco Bay/Sacramento San Joaquin Delta Estuary (the Bay-Delta) is of statewide and national importance. The Bay-Delta provides habitat for more than 120 species of fish and wildlife and serves as a major link in our water delivery system for businesses and farms statewide and more than 22 million residents.

(g) The state has signed an historic accord with federal officials and statewide water interests that calls for the development of a comprehensive and long-term solution for the water supply reliability, water quality, and environmental problems of the Bay-Delta.

(h) Federal and state representatives have initiated a program known as CALFED, to develop a comprehensive and long-term solution to the problems associated with the Bay-Delta, including an equitable allocation of program costs among beneficiary groups. The success of the CALFED program is vital to the environmental and economic well-being of the state.

78500.4. In enacting this measure, the people of California declare all of the following to be the objectives of this act:

(a) To provide a safe, clean, affordable, and sufficient water supply to meet the needs of California residents, farms, and businesses.

(b) To develop lasting water solutions that balance the needs of the state's economy and its environment.

(c) To restore ecological health for native fish and wildlife, and their natural habitats, including wetlands.

(d) To protect the integrity of the state's water supply system from catastrophic failure due to earthquakes and flooding.

(e) To protect drinking water quality.

(f) To protect the quality of life in our communities by ensuring recreational opportunities and maintaining parks, trees, and plants.

CHAPTER 2. DEFINITIONS

78501. Unless the context otherwise requires, the following definitions govern the construction of this division:

(a) "Bay-delta" means the San Francisco Bay/Sacramento-San Joaquin Delta Estuary.

(b) "Board" means the State Water Resources Control Board.

(c) "CALFED" refers to a consortium of five state agencies, including the Resources Agency, the department, the Department of Fish and Game, the California Environmental Protection Agency, and the board, and five federal agencies, including the United States Department of Interior, the United States Bureau of Reclamation, the United States Fish and Wildlife Service, the Environmental Protection Agency, and the National Marine Fisheries Service, with management and regulatory responsibilities in the bay-delta.

(d) "Clean Water Act" means the federal Clean Water Act (33 U.S.C.A. Sec. 1251 et seq.) and includes any amendments thereto.

(e) "Committee" means the Safe, Clean, Reliable Water Supply Finance Committee created pursuant to Section 78693.

(f) "Delta" means the Sacramento-San Joaquin Delta.

(g) "Department" means the Department of Water Resources.

(h) "Fund" means the Safe, Clean, Reliable Water Supply Fund created pursuant to Section 78505.

CHAPTER 3. SAFE, CLEAN, RELIABLE WATER SUPPLY FUND

78505. The proceeds of bonds issued and sold pursuant to this division shall be deposited in the Safe, Clean, Reliable Water Supply Fund, which is hereby created.

CHAPTER 4. DELTA IMPROVEMENT PROGRAM

Article 1. The Delta Improvement Account

78525. Unless the context otherwise requires, as used in this chapter, "account" means the Delta Improvement Account created by Section 78526.

78526. The Delta Improvement Account is hereby created in the fund. The sum of one hundred ninety-three million dollars ($193,000,000) is hereby transferred from the fund to the account.

Article 2. Central Valley Project Improvement Program

78530. (a) There is hereby created in the account the Central Valley Project Improvement Subaccount.

(b) For the purposes of this article, "subaccount" means the Central Valley Project Improvement Subaccount created by subdivision (a).

78530.5. The sum of ninety-three million dollars ($93,000,000) is hereby transferred from the account to the subaccount for the purpose of implementing this article.

78531. (a) Notwithstanding Section 13340 of the Government Code, the money in the subaccount is hereby continuously appropriated, without regard to fiscal years, to the Controller, to be allocated to pay the state's share of the costs for fish and wildlife restoration measures required by Section 3406 of the Central Valley Project Improvement Act (P.L. 102-575), in accordance with subdivisions (b) and (c).

(b) Funds appropriated pursuant to subdivision (a) shall be allocated to the Department of Fish and Game or the department for expenditure pursuant to the terms of the cost-sharing agreement between the United States and the State of California as required by subsection (h) of Section 3406 of the Central Valley Project Improvement Act, or any agreements supplemental thereto, for the payment of costs allocated to the state for the protection and restoration of fish and wildlife resources and habitat pursuant to Section 3406 of that federal act.

(c) The money in the subaccount may be used for both of the following purposes:

(1) To pay for the state's cost-sharing allocations or for actions directly undertaken by the department or the Department of Fish and Game relating to fish and wildlife restoration actions required by Section 3406 of the Central Valley Project Improvement Act (P.L. 102-575). For purposes of this paragraph, and consistent with Attachment C of the "Principles for Agreement on Bay-Delta Standards Between the State of California and the Federal Government," dated December 15, 1994, preference for the screening of diversions shall be given to projects, and projects within programs, identified in the Central Valley Project Improvement Act (P.L. 102-575) for which deadlines have been established by state or federal agencies, or by a state or federal court. Any preference established under this paragraph shall be revised if the deadlines are extended or eliminated.

(2) To pay for administrative costs incurred in connection with the implementation of this section by the department and the Department of Fish and Game related to fish and wildlife restoration measures undertaken pursuant to Section 3406 of the Central Valley Project Improvement Act (P.L. 102-575), as follows:

(A) Not more than 3 percent of the total amount deposited in the subaccount for the use of the department may be used to pay the costs incurred in connection with the administration of this article by the department.

(B) Not more than 3 percent of the total amount deposited in the subaccount for the use of the Department of Fish and Game may be used to pay the costs incurred in connection with the administration of this article by the Department of Fish and Game.

Article 3. Bay-Delta Agreement Program

78535. (a) There is hereby created in the account the Bay-Delta Agreement Subaccount.

(b) For the purposes of this article, "subaccount" means the Bay-Delta Agreement Subaccount created by subdivision (a).

78535.5. The sum of sixty million dollars ($60,000,000) is hereby transferred from the account to the subaccount for the purpose of implementing this article.

78536. Notwithstanding Section 13340 of the Government Code, the money in the subaccount is hereby continuously appropriated, without regard to fiscal years, to the Resources Agency, to pay for the administration of this article and for non-flow-related projects called for in the Water Quality Control Plan for the Bay-Delta, adopted by the board in Resolution No. 95-24, and as it may be amended. Those projects are known as "Category III" activities called for in the "Principles for Agreement on Bay-Delta Standards Between the State of California and the Federal Government," dated December 15, 1994.

78536.5. The Secretary of the Resources Agency shall carry out this article in accordance with procedures established by CALFED for the purposes of undertaking Category III activities and other ecosystem restoration programs until the Legislature, by statute, authorizes another entity that is recommended by CALFED, to carry out this article.

78537. The state shall, to the greatest extent possible, secure federal and nonfederal matching funds to implement this article.

78538. Not more than 3 percent of the total amount deposited in the subaccount may be used to pay the costs incurred in connection with the administration of this article.

Article 4. Delta Levee Rehabilitation Program

78540. (a) There is hereby created in the account the Delta Levee Rehabilitation Subaccount.

(b) For the purposes of this article, "subaccount" means the Delta Levee Rehabilitation Subaccount created by subdivision (a).

78540.5. The sum of twenty-five million dollars ($25,000,000) is hereby transferred from the account to the subaccount for the purpose of implementing this article.

78541. Notwithstanding Section 13340 of the Government Code, the money in the subaccount is hereby continuously appropriated, without regard to fiscal years, to the department, as follows:

(a) Twelve million five hundred thousand dollars ($12,500,000) for local assistance under the delta levee maintenance subventions program under Part 9 (commencing with Section 12980) of Division 6, and for the administration of that assistance.

(b) Twelve million five hundred thousand dollars ($12,500,000) for special flood protection projects under Chapter 2 (commencing with Section 12310) of Part 4.8 of Division 6, subsidence studies and monitoring, and for the administration of this subdivision. Allocation of these funds shall be for flood protection projects on Bethel, Bradford, Holland, Hotchkiss, Jersey, Sherman, Twitchell, and Webb Islands, and at other locations in the delta.

78542. The expenditure of funds under this article is subject to Chapter 1.5 (commencing with Section 12306) of Part 4.8 of Division 6.

78543. (a) No expenditure of funds may be made under this article unless the Department of Fish and Game makes a written determination as part of its review and approval of a plan or project pursuant to Section 12314 or 12987 that the proposed

expenditures are consistent with a net long-term habitat improvement program, and have a net benefit for aquatic species in the delta. The Department of Fish and Game shall make its determination in a reasonable and timely manner following the submission of the project or plan to that department. For the purposes of this article, an expenditure may include more than one levee project or plan.

(b) The memorandum of understanding entered into pursuant to Section 12307 shall be amended to require, in accordance with this section, that projects or plans be consistent with a net long-term habitat improvement program in the delta. The memorandum of understanding shall define the term "net long-term habitat improvement program in the delta" for purposes of this section. The memorandum of understanding in effect prior to the amendment required by this section shall continue to apply to levee projects and plans until the memorandum of understanding is amended.

78544. For the purposes of this article, a levee project includes levee improvements and related habitat improvements which may be undertaken in the delta at a location other than the location of that levee improvement.

78545. The expenditure of funds under this article shall result in levee rehabilitation improvement projects that, to the greatest extent possible, are consistent with the CALFED program.

Article 5. South Delta Barriers Program

78550. (a) There is hereby created in the account the South Delta Barriers Subaccount.

(b) For the purposes of this article, "subaccount" means the South Delta Barriers Subaccount created by subdivision (a).

78550.5. The sum of ten million dollars ($10,000,000) is hereby transferred from the account to the subaccount for the purpose of implementing this article.

78551. (a) Notwithstanding Section 13340 of the Government Code, the money in the subaccount is hereby continuously appropriated, without regard to fiscal years, to the department, to pay the costs incurred by the department that are not attributable to the State Water Project's or the Central Valley Project's share of costs for the South Delta Barriers Program, and for the administration of this article.

(b) The costs identified in subdivision (a) include costs incurred for the purpose of mitigating non-State Water Project or non-Central Valley Project impacts and for the purpose of environmental enhancement in the delta.

(c) No funds shall be expended under this article unless the Department of Fish and Game determines, in writing, that a net habitat benefit will result.

78552. Not more than 3 percent of the total amount deposited in the subaccount may be used to pay the costs incurred in connection with the administration of this article.

Article 6. Delta Recreation Program

78560. (a) There is hereby created in the account the Delta Recreation Subaccount.

(b) For the purposes of this article, "subaccount" means the Delta Recreation Subaccount created by subdivision (a).

78560.5. The sum of two million dollars ($2,000,000) is hereby transferred from the account to the subaccount for the purposes of implementing this article.

78562. Notwithstanding Section 13340 of the Government Code, the money in the subaccount is hereby continuously appropriated, without regard to fiscal years, to the Department of Parks and Recreation to provide for, and improve, public access to, and to maximize public recreational opportunities on, the lands and waters of the delta in a way that is consistent with existing uses of the islands, sound resource conservation principles, and appropriate protection for the rights of private property owners, and for the administration of this article.

78564. The Department of Parks and Recreation may use funds in the subaccount for grants to local public agencies and nonprofit organizations for the purposes of acquiring fee title, development rights, easements, or other interests in land located in the delta to provide for, or improve, public access in the delta. The amount of any grant and the degree of local participation shall be determined by the fiscal resources of the grant applicant, the degree of public benefit provided by the proposed project, and other factors prescribed by the Department of Parks and Recreation.

78565. Any acquisition pursuant to this article shall be from willing sellers.

78566. The Department of Parks and Recreation may adopt regulations to carry out this article.

78568. Not more than 3 percent of the total amount deposited in the subaccount may be used to pay the costs incurred in connection with the administration of this article.

Article 7. CALFED Bay-Delta Program

78570. (a) There is hereby created in the account the CALFED Subaccount.

(b) For the purposes of this article, "subaccount" means the CALFED Subaccount created by subdivision (a).

78571. The sum of three million dollars ($3,000,000) is hereby transferred from the account to the subaccount for the purposes of Section 78572.

78572. Notwithstanding Section 13340 of the Government Code, the money in the subaccount is continuously appropriated, without regard to fiscal years, to the department, for the purpose of paying for the state's share of costs incurred in connection with the CALFED Bay-Delta Program.

CHAPTER 5. CLEAN WATER AND WATER RECYCLING PROGRAM

Article 1. General Provisions

78601. Unless the context otherwise requires, as used in this chapter, "account" means the Clean Water and Water Recycling Account created by Section 78602.

78602. The Clean Water and Water Recycling Account is hereby created in the fund. The sum of two hundred thirty-five million dollars ($235,000,000) is hereby transferred from the fund to the account.

78603. The board may adopt regulations to carry out Article 2 (commencing with Section 78610), Article 3 (commencing with Section 78620), Sections 78640 to 78644, inclusive, Article 5 (commencing with Section 78647), and Article 6 (commencing with Section 78648).

78603.5. The Department of Food and Agriculture may adopt regulations to carry out Section 78645.

Article 2. Clean Water Loans and Grants

78610. Unless the context otherwise requires, the following definitions govern the construction of this article:

(a) "Eligible project" means a project or activity described in paragraph (1), (2), (3), or (4) of subdivision (a) of Section 13480 that is all of the following:

(1) Necessary to prevent water pollution or to reclaim water.

(2) Eligible for funds from the State Revolving Fund Loan Account or federal assistance.

(3) Certified by the board as entitled to priority over other eligible projects.

(4) Complies with applicable water quality standards, policies, and plans.

(b) "Federal assistance" means money provided to a municipality, either directly or through allocation by the state, from the federal government to construct eligible projects pursuant to the Clean Water Act.

(c) "Municipality" has the same meaning as defined in the Clean Water Act and also includes the state or any agency, department, or political subdivision thereof, and applicants eligible for assistance under Sections 1329 and 1330 of Title 33 of the United States Code.

(d) "Small community" means a municipality with a population of 5,000 persons or less, or a reasonably isolated and divisible segment of a larger municipality encompassing 5,000 persons or less, with a financial hardship as determined by the board.

(e) "Treatment works" has the same meaning as defined in the Clean Water Act.

78611. There is hereby created in the account both of the following subaccounts:

(a) The State Revolving Fund Loan Subaccount.

(b) The Small Communities Grant Subaccount.

78612. The board may, by contract or otherwise, undertake plans, surveys, research, development, and studies necessary or desirable to carry out this article, and may prepare recommendations with regard thereto, including the preparation of comprehensive statewide or areawide studies and reports on the collection, treatment, and disposal of waste under a comprehensive cooperative plan.

78612.5. Not more than 3 percent of the total amount deposited in the State Revolving Fund Loan Subaccount and the Small Communities Grant Subaccount may be used for both of the following purposes:

(a) To pay the costs incurred in connection with the administration of this article.

(b) For the purposes of Section 78612.

78613. The following amounts are hereby transferred from the account to the State Revolving Fund Loan Subaccount and the Small Communities Grant Subaccount and, notwithstanding Section 13340 of the Government Code, continuously appropriated, without regard to fiscal years, from the subaccounts to the board:

(a) Eighty million dollars ($80,000,000) to the State Revolving Fund Loan Subaccount for the purposes of providing loans pursuant to the Clean Water Act, to aid in the construction or implementation of eligible projects, and for the purposes described in Section 78612.

(b) Thirty million dollars ($30,000,000) to the Small Communities Grant Subaccount for grants by the board to small communities for construction of eligible treatment works. If, in the judgment of the board, the money in the Small Communities Grant Subaccount will not be expended within a reasonable time, the board may transfer the money to the State Revolving Fund Loan Subaccount to be used for any of the purposes specified in subdivision (a).

(c) The board may transfer unallocated funds from the State Revolving Fund Loan Subaccount to the State Water Pollution Control Revolving Fund for the purposes of meeting federal requirements for state matching funds to provide loans in accordance with the Clean Water Act.

78614. For purposes of subdivision (a) of Section 78613, the board may make loans to municipalities, pursuant to contract, to aid in the construction or implementation of eligible projects.

78615. For purposes of subdivision (b) of Section 78613, the board may make grants to small communities so that any combined federal and state grant does not exceed 97½ percent of the eligible cost of necessary studies, planning, design, and construction of the eligible project determined in accordance with applicable state law and regulations. The total amount of grants made pursuant to subdivision (b) of Section 78613, for any single project, may not exceed three million five hundred thousand dollars ($3,500,000).

78616. Any contract entered into pursuant to this article for loans or grants may include provisions determined by the board, and shall include all of the following provisions:

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

(b) A description of the type of assistance being offered.

(c) An agreement by the board to pay to the entity, during the progress of the project or following completion, as agreed upon by the parties, the amount specified in the contract determined pursuant to applicable federal and state laws and regulations.

(d) An agreement by the public entity to proceed expeditiously with, and complete, the project, commence operation of the project upon completion, properly operate and maintain the project in accordance with applicable provisions of law, and provide for payment of the public entity's share of the cost of the project.

78617. All contracts entered into pursuant to this article for loans or grants are also subject to both of the following requirements:

(a) Public entities seeking assistance shall demonstrate, to the satisfaction of the board, that an adequate opportunity for public participation regarding the project has been provided.

(b) Any election held with respect to the project shall include the voters of the entire municipality unless the municipality proposes to accept the assistance on behalf of a specified portion or portions of the municipality, in which case the election shall be held in that portion or portions of the municipality only.

78618. Any loan made pursuant to subdivision (a) of Section 78613 shall be for a period not to exceed 20 years, with an interest rate set in accordance with Section 13480.

78619. All principal and interest payments received pursuant to loan contracts entered into pursuant to this article shall be deposited in the State Revolving Fund Loan Subaccount for additional loans under subdivision (a) of Section 78613, and shall not be transferred the General Fund.

Article 3. Water Recycling Program

78620. Unless the context otherwise requires, the following definitions govern the construction of this article:

(a) "Eligible recycling project" means a water reclamation project that meets applicable

reclamation criteria and water reclamation requirements and that complies with applicable water quality standards, policies, and plans.

(b) "Subaccount" means the Water Recycling Subaccount created by Section 78621.

78621. (a) (1) There is hereby created in the account the Water Recycling Subaccount. sum of sixty million dollars ($60,000,000) is hereby transferred from the account to the account for the purpose of implementing this article.

(2) All money repaid to the state pursuant to any contract executed under the Clean Water and Water Reclamation Bond Law of 1988 (Chapter 17 (commencing with Section 14050) of Division 7) shall be deposited in the subaccount for the purposes of subdivision (b).

(b) Notwithstanding Section 13340 of the Government Code, the money in the subaccount is hereby continuously appropriated, without regard to fiscal years, to the board for loans to public agencies to construct, operate, and maintain eligible recycling projects, for loans to aid in the design and construction of eligible recycling projects, for grants in accordance with Section 78628, and for the purposes described in Section 78629 and subdivision (a) of Section 78630.

78622. The board may enter into contracts to make loans to public agencies for the purposes set forth in this article. Factors to be considered by the board in determining whether to enter into a contract under this article may include, but are not limited to, whether the project is cost-effective or necessary to protect water quality.

78623. Any contract for a loan entered into pursuant to Section 78622 may include those provisions determined by the board to be necessary for purposes of this chapter and shall include both of the following provisions:

(a) An estimate of the reasonable cost of the eligible recycling project.

(b) An agreement by the public agency to proceed expeditiously with, and complete, the eligible recycling project, commence operation of the project in accordance with applicable provisions of law, and provide for the payment of the public agency's share of the cost of the project, including the principal of, and interest on, the loan.

78624. (a) A contract for a loan may not provide for a moratorium on the payment of the principal of, or interest on, the loan.

(b) Any loan made pursuant to Section 78622 shall be for a period not to exceed 20 years.

(c) The board may enter into a contract for a loan of up to 100 percent of the total eligible cost of design and construction of an eligible recycling project.

78625. (a) The board shall establish the interest rate for a loan made pursuant to this article at a rate equal to 50 percent of the interest rate paid by the state on the most recent sale of state general obligation bonds, to be computed according to the true interest cost method.

(b) If the interest rate so determined is not a multiple of one-tenth of 1 percent, the interest rate shall be set at the next higher multiple of one-tenth of 1 percent.

(c) The interest rate set for each contract shall be applied throughout the repayment period of the contract. There shall be a level annual repayment of principal and interest on the loans.

78626. (a) All principal and interest payments received pursuant to loan contracts ered into pursuant to this article shall be deposited in the subaccount for additional loans ler subdivision (b) of Section 78621, and shall not be transferred to the General Fund.

(b) The board may transfer any unallocated funds in the subaccount to the Water Reclamation Account in the 1984 State Clean Water Bond Fund for the purposes set forth in Section 13999.10.

78627. All interest earned by assets in the subaccount shall be deposited in the subaccount.

78628. The board may make grants to public agencies for facility planning studies for water reclamation projects. The amount of the grants may not exceed seventy-five thousand dollars ($75,000) per study.

78629. The board may, by contract or otherwise, undertake plans, surveys, research, development, and studies necessary, convenient, or desirable to carry out the purposes of this article, and may prepare recommendations with regard thereto, including the preparation of comprehensive statewide or areawide studies and reports on water recycling and the collection, treatment, disposal, and distribution of wastewater under a comprehensive cooperative plan.

78630. Not more than 3 percent of the total amount deposited in the subaccount may be used to pay for both of the following purposes:

(a) To pay the costs incurred in connection with the administration of this article.

(b) For the purposes of Section 78629.

Article 4. Drainage Management

78640. Unless the context otherwise requires, the following definitions govern the construction of this article:

(a) (1) "Drainage water management units" means land and facilities for the treatment, storage, conveyance, reduction, or disposal of agricultural drainage water which, if discharged untreated, would pollute or threaten to pollute the waters of the state.

(2) Drainage water management units shall include one or more of the following:

(A) A surface impoundment that is designed to hold an accumulation of drainage water, including, but not limited to, holding, storage, settling, and aeration pits, and lagoons. A surface impoundment does not include a landfill, a land farm, a pile, an emergency containment dike, tank, injection well, evaporation pond, or percolation pond.

(B) Conveyance facilities to the treatment or storage site, including devices for flow regulation.

(C) Facilities or works to treat agricultural drainage water to remove or substantially reduce the level of constituents which pollute or threaten to pollute the waters of the state, including, but not limited to, processes utilizing ion exchange, desalting technologies such as reverse osmosis, and biological treatment.

(D) Facilities or works to reduce the amount of agricultural drainage water discharged, luding, but not limited to, source control projects.

(E) Diked areas or cells that are (i) used for the purpose of water conservation, water management, or environmental mitigation and (ii) located within inland bodies of saline water in Imperial and Riverside Counties.

(3) Any or all of the drainage water management units, including the land under the unit, may consist of separable features, or an appropriate share of multipurpose features, of a larger system, or both.

(4) Drainage water management units do not include facilities for the direct discharge of agricultural drainage water to the bay-delta or Pacific Ocean.

(b) "Local agency" or "agency" means any city, county, district, joint powers authority, or other political subdivision of the state involved with water management.

(c) "Project" means drainage water management units.

(d) "Subaccount" means the Drainage Management Subaccount created by Section 78641.

78641. There is hereby created in the account the Drainage Management Subaccount. The sum of thirty million dollars ($30,000,000) is hereby transferred from the account to the subaccount for the purpose of implementing this article.

78642. (a) Notwithstanding Section 13340 of the Government Code, the sum of twenty-seven million five hundred thousand dollars ($27,500,000) in the subaccount is hereby continuously appropriated, without regard to fiscal years, to the board, for loans to local agencies to aid in the construction of drainage water management units for the treatment, storage, or disposal of agricultural drainage water, and for the purposes described in Section 78644. Priority shall be given to funding source reduction projects and programs.

(b) Notwithstanding Section 13340 of the Government Code, the sum of two million five hundred thousand dollars ($2,500,000) in the subaccount is hereby continuously appropriated, without regard to fiscal years, to the board, for grants to local agencies for the purpose of providing the nonfederal share of the costs specified in Section 1101 of Public Law 102-575.

78643. (a) The board may loan an agency up to 100 percent of the total eligible costs of design and construction of an eligible project.

(b) Any contract for an eligible project entered into pursuant to this article may include provisions as determined by the board to be necessary and shall include, but not be limited to, all of the following provisions:

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

(2) An agreement by the agency to do all of the following:

(A) Proceed expeditiously with, and complete, the eligible project.

(B) Commence operation of the containment structures or treatment works upon completion and to properly operate and maintain the works in accordance with applicable provisions of law.

(C) Provide for payment of the agency's share of the cost of the project, including principal and interest on any state loan made pursuant to this article.

(D) If appropriate, apply for, and make reasonable efforts to secure, federal assistance for the state-assisted project.

(c) All loans made pursuant to this article are subject to all of the following provisions:

(1) Agencies seeking a loan shall demonstrate, to the satisfaction of the board, that an adequate opportunity for public participation regarding the loan has been provided.

(2) Any election held with respect to the loan shall include the voters of the entire agency except where the agency proposes to accept the loan on behalf of a specified portion, or portions, of the agency, in which case the election shall be held in that portion or portions of the agency only.

(3) Loan contracts may not provide a moratorium on payment of principal or interest.

(4) Loans shall be for a period of not more than 20 years. The interest rate for the loans shall be set at a rate equal to 50 percent of the interest rate paid by the state on the most recent sale of state general obligation bonds, to be computed according to the true interest cost method. If the interest rate so determined is not a multiple of one-tenth of 1 percent, the interest rate shall be set at the next higher multiple of one-tenth of 1 percent. The interest rate set for each contract shall be applied throughout the repayment period of the contract. There shall be a level annual repayment of principal and interest on loans.

(5) No single project may receive more than five million dollars ($5,000,000) in loan proceeds from the board under this act and the Water Conservation and Water Quality Bond Law of 1986 (Chapter 6.1 (commencing with Section 13450) of Division 7).

(d) The board may make loans to local agencies, at the interest rates authorized under this article and under any terms and conditions as may be determined necessary by the board, for purposes of financing feasibility studies of projects potentially eligible for funding under this article. No single project shall be eligible to receive more than one hundred thousand dollars ($100,000), and not more than 3 percent of the total amount of bonds authorized to be expended for the purposes of this article may be expended for loans to finance feasibility studies. A loan for a feasibility study shall not decrease the maximum amount of any other loan which may be made under this article.

78644. The board may, by contract or otherwise, undertake plans, surveys, research, development, and studies necessary, convenient, or desirable to carry out subdivision (a) of Section 78642.

78645. (a) Any unallocated funds remaining in the Agricultural Drainage Water Account in the 1986 Water Conservation and Water Quality Bond Fund on November 6, 1996, shall be transferred to the subaccount.

(b) Notwithstanding Section 13340 of the Government Code, any funds that are transferred pursuant to subdivision (a) to the subaccount are hereby continuously appropriated, without regard to fiscal years, to the Department of Food and Agriculture for programs to develop methods of using drainage water and reducing toxic materials in drainage water through reuse of the water and the use of the remaining salts. Priority shall be given to source reduction projects and programs.

78645.5. Not more than 3 percent of the total amount deposited in the subaccount for the use of the board may be used to pay for both of the following purposes:

(a) To pay the costs incurred by the board in connection with the administration of this article.

(b) For the purposes of Section 78644.

78645.7. Not more than 3 percent of the total amount deposited in the subaccount for the use of the Department of Food and Agriculture may be used to pay the costs incurred by that department in connection with the administration of this article.

Article 5. Delta Tributary Watershed Program

78647. (a) (1) There is hereby created in the account the Delta Tributary Watershed Subaccount.

(2) For the purposes of this article, "subaccount" means the Delta Tributary Watershed Subaccount created by paragraph (1).

(3) The sum of fifteen million dollars ($15,000,000) is hereby transferred from the account to the subaccount for the purposes of implementing this article.

(b) Notwithstanding Section 13340 of the Government Code, the money in the subaccount is hereby continuously appropriated, without regard to fiscal year, to the board for grants for eligible projects in accordance with this article, and for the administration of this article.

78647.2. (a) The board shall administer a program under which a county, or a joint powers authority in which a county is a participant, may submit an application to the board for an eligible project requesting financial or technical assistance for the purpose of developing a voluntary, incentive-based watershed rehabilitation project. The board shall consult with other federal and state resource agencies, including, but not limited to, the Department of Fish and Game and the Department of Forestry and Fire Protection, in the administration of the program. The Resources Agency shall make a written recommendation to the board regarding each application. The board shall consider the recommendations of the Resources Agency and include, when appropriate, the recommendation in the board's final decision.

(b) Notwithstanding subdivision (a), if a county, or a joint powers authority in which a county is a participant, after a request to do so by a local public agency, declines to submit an application for an eligible project for a watershed that is all or in part within the boundaries of the county, a local public agency other than the county or that joint powers agency may submit an application in accordance with subdivision (a).

78647.4. (a) "Eligible project" means a watershed rehabilitation project undertaken on lands owned or operated by the federal, state, or a local government, or a private person or entity within the delta tributary watershed.

(b) For the purposes of this article, "delta tributary watershed" means a watershed which drains into the delta or the Trinity River.

78647.5. An eligible project shall include one or more of the following purposes:

(a) A reduction in the presence of contaminants in drinking water by addressing the origins of the contaminants, including, to the maximum extent practicable, the specific activities that affect the drinking water supply of a community or communities. A project with a purpose described in this subdivision shall address contaminants, including those that are pathogenic organisms, for which a national primary drinking water regulation has been established, and that are detected in the community water system for which the application is submitted at levels above the maximum contaminant level or that are detected by adequate monitoring methods at levels that are not reliably and consistently below the maximum contaminant level.

(b) An increase in the yield of water available from, and water retention capabilities of, the watershed, including projects to reduce dense forest understory, restore upland meadows, and repair stream channels.

(c) The improvement, restoration, or enhancement of fisheries habitat, including riparian habitat, in and along streams and watercourses in the watershed. Projects may address factors which increase sedimentation in streams and watercourses in the watershed.

(d) The improvement of overall forest health, including the reduction of factors which may contribute to the severity of wildfires in the watershed.

78647.6. (a) Every project funded under this article shall comply with state and federal law, regulations, and policies, and shall not degrade the quality of any waters of the state.

(b) An application submitted to the board under this article shall include all of the following information:

(1) An identification of any deficiencies in information that may impair the development or implementation of a project.

(2) A discussion of the efforts undertaken to implement the project and to obtain the participation of both of the following:

(A) Public agencies with relevant responsibilities in the watershed.

(B) Persons and entities in the watershed who may be affected by recommendations of the project and whose participation is essential to the success of the project.

(3) Evidence in the form of a statement from a private person or entity that that person or entity consents to the inclusion of private property in the project, as appropriate.

(4) A monitoring plan to determine whether project purposes are satisfied.

(5) An outline of the way in which project participants will, during the development and implementation of the project, identify and take into account any activities being undertaken by persons or entities in the watershed under federal or state law to rehabilitate the watershed. A project shall include voluntary and incentive-based strategies for the long-term rehabilitation of the watershed.

(6) An identification of the technical, financial, or other assistance that the applicant will request to develop or implement the project.

(7) When feasible, an identification of quantifiable, innovative, and cost-effective methods for achieving project purposes.

78647.7. An application submitted to the board under Section 78647.6 shall also include the following information:

(a) A delineation of the watershed area or areas critical for project purposes using available hydrogeologic or other pertinent information. If no information is available, the project shall conduct, to the extent practicable, vulnerability assessments in the watershed area, including identification of risks to drinking water, a project may use delineations and vulnerability assessments undertaken to identify groundwater sources under a wellhead protection program, surface or groundwater sources under a pesticide management plan, or surface water sources under a state or local watershed initiative, or undertaken in accordance with Subpart H (commencing with Section 141.70) of Part 141 of Title 40 of the Code of Federal Regulations.

(b) An identification, to the maximum extent practicable, of the origins of drinking water contaminants that may be addressed by a project, including, to the maximum extent practicable, a description of the specific activities contributing to the presence of the contaminants in the watershed.

78647.8. The board may approve a grant for an eligible project to develop or implement a project, not to exceed one million dollars ($1,000,000) per project. A grant shall not exceed 50 percent of the administrative costs incurred, or estimated to be incurred, by the applicant in connection with carrying out the project.

78647.10. (a) After providing notice and an opportunity for public comment with regard to an application submitted under Section 78647.6, the board shall approve or disapprove the application, in whole or in part, not later than 120 days after the date of submission of the application. The board shall prepare, and transmit to the Resources Agency and the applicant, written findings with regard to the recommendations of the Resources Agency.

(b) The board may approve an application if the application meets the requirements established under this article. The notice of approval shall include all of the following:

(1) The identification of technical, financial, or other assistance that the board agrees provide to assist in the development or implementation of a project.

(2) Any necessary coordination that the board will perform.

(3) A description of any funds available for the purpose of developing and implementing the project, including any funds in a water pollution control revolving fund established in connection with Subchapter VI (commencing with Section 1381) of the Clean Water Act.

(4) A description of other technical or financial assistance that is available under state or federal law for the purpose of developing or implementing the project.

(5) A description of activities that are undertaken, or will be undertaken, to coordinate federal and state programs which are relevant to the watershed that is the subject of the application.

(c) If the board disapproves an application submitted under Section 78647.6, the board shall notify the entity submitting the application in writing of the reasons for disapproval. An application may be resubmitted under either of the following circumstances:

(1) New information becomes available.

(2) Conditions affecting the watershed that is the subject of the application change.

78647.12. The board may adopt regulations to implement this article. The regulations shall include all of the following:

(a) Criteria for the assessment of watershed areas.

(b) Procedures for the submission of applications.

(c) Procedures for the approval or disapproval of an application submitted under Section 78647.6.

78647.14. Grant recipients shall submit a report on completion of the project to the board indicating whether the purposes of the project have been met. The board shall make the report available to interested federal, state, and local agencies.

78647.16. Not more than 3 percent of the total amount deposited in the subaccount may be used to pay the costs incurred in connection with the administration of this article.

Article 6. Seawater Intrusion Control

78648. Unless the context otherwise requires, the following definitions govern the construction of this article:

(a) (1) "Eligible seawater intrusion control project" means a project which is all of the following:

(A) Necessary to protect groundwater that is (i) within a basin that is subject to a local groundwater management plan for which a review is completed pursuant to the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) and (ii) is threatened by seawater intrusion in an area where restrictions on groundwater pumping, a physical solution, or both, are necessary to prevent the destruction of, or irreparable injury to, groundwater quality.

(B) Is cost-effective. In the case of a project to provide a substitute water supply, a project shall be cost-effective as compared to the development of other new sources of water and shall include requirements or measures adequate to ensure that the substitute supply will be used in lieu of previously established extractions or diversions of groundwater.

(C) Complies with applicable water quality standards, policies, and plans.

(2) Eligible projects may include, but are not limited to, water conservation, freshwater well injection, and substitution of groundwater pumping from local surface supplies.

(b) "Local agency" means any city, county, district, joint powers authority, or other political subdivision of the state involved in water management.

(c) "Subaccount" means the Seawater Intrusion Control Subaccount created by Section 78648.2.

78648.2. (a) There is hereby created in the account the Seawater Intrusion Control Subaccount. The sum of ten million dollars ($10,000,000) is hereby transferred from the account to the subaccount for the purposes of implementing this article.

(b) Notwithstanding Section 11340 of the Government Code, the money in the subaccount is hereby continuously appropriated, without regard to fiscal year, to the board for loans to local agencies to carry out eligible seawater intrusion control projects and for the purposes described in this article, and for the administration of this article.

78648.4. The board may enter into contracts to make loans to local agencies for the purposes set forth in this article.

78648.6. Any contract for a loan entered into pursuant to Section 78648.4 may include those provisions determined by the board to be necessary for purposes of this article and shall include both of the following provisions:

(a) An estimate of the reasonable cost of the eligible seawater intrusion control project.

(b) An agreement by the local agency to proceed expeditiously with, and complete, the eligible seawater intrusion control project, commence operation of the project in accordance with applicable provisions of law, and provide for the payment of the local agency's share of the cost of the project, including the principal of, and interest on, the loan.

78648.8. (a) A contract for a loan may not provide for a moratorium on the payment of the principal of, or interest on, the loan.

(b) Any loan made pursuant to Section 78648.4 shall be for a period not to exceed 20 years.

(c) The board may enter into a contract for a loan up to 100 percent of the total eligible cost of design and construction of an eligible seawater intrusion control project.

78648.10. (a) The board shall establish the interest rate for a loan made pursuant to this article at a rate equal to 50 percent of the interest rate paid by the state on the most recent sale of state general obligation bonds, to be computed according to the true interest cost method.

(b) If the interest rate so determined is not a multiple of one-tenth of 1 percent, the inte rate shall be set at the next higher multiple of one-tenth of 1 percent.

(c) The interest rate set for each contract shall be applied throughout the repayment period of the contract. There shall be a level annual repayment of principal and interest on the loans.

78648.12. All principal and interest payments received pursuant to loan contracts entered into pursuant to this article shall be deposited in the subaccount.

78648.14. The board may, by contract or otherwise, undertake plans, surveys, research, development, and studies necessary, convenient, or desirable to carry out the purposes of this article.

78648.16. Not more than 3 percent of the total amount deposited in the subaccount may used to pay for both of the following:

(a) To pay the costs incurred in connection with the administration of this article.

(b) For the purposes of Section 78648.14.

Article 7. Lake Tahoe Water Quality

78650. Unless the context otherwise requires, as used in this article, "subaccount" means the Lake Tahoe Water Quality Subaccount created by Section 78650.2.

78650.2. (a) There is hereby created in the account the Lake Tahoe Water Quality Subaccount. The sum of ten million dollars ($10,000,000) is hereby transferred from the account to the subaccount for the purpose of implementing this article.

(b) Notwithstanding Section 13340 of the Government Code, the money in the subaccount is hereby continuously appropriated, without regard to fiscal years, to the California Tahoe Conservancy for the purposes of directly undertaking, or for grants to public agencies for, land acquisition and improvement programs which control soil erosion, restore watersheds, or preserve environmentally sensitive lands and the natural environment, and related implementation costs, pursuant to Title 7.42 (commencing with Section 66905) of the Government Code.

78650.4. Any acquisition pursuant to this article shall be from willing sellers.

Chapter 6. Water Supply Reliability

Article 1. General Provisions

78651. Unless the context otherwise requires, as used in this chapter, "account" means the Water Supply Reliability Account created by Section 78652.

78652. The Water Supply Reliability Account is hereby created in the fund. The sum of one hundred seventeen million dollars ($117,000,000) is hereby transferred from the fund to the account.

Article 2. Feasibility Projects

78655. (a) (1) There is hereby created in the account the Feasibility Projects Subaccount.

(2) For the purposes of this article, "subaccount" means the Feasibility Projects Subaccount created by paragraph (1).

(b) The sum of ten million dollars ($10,000,000) is hereby transferred from the account to the subaccount for the purpose of implementing this article.

78656. Notwithstanding Section 13340 of the Government Code, the money in the subaccount is hereby continuously appropriated, without regard to fiscal year, to the department, for the administration of this article and for feasibility and environmental investigations for any of the following projects:

(a) Off-stream storage upstream of the delta that will provide storage and flood control benefits in an environmentally sensitive and cost-effective manner.

(b) Regional water recycling that may include partnerships or other cooperative efforts undertaken by water agencies, wastewater dischargers, or other public agencies to collect and reuse treated municipal wastewater for agricultural, industrial, residential, and environmental purposes.

(c) Water transfer facilities in a county of the third class that would increase capacity for delivering Colorado River water for use in the southern California coastal plain and reduce demands on the bay-delta.

(d) Desalination.

78657. Not more than 3 percent of the total amount deposited in the subaccount may be used to pay the costs incurred in connection with the administration of this article.

Article 3. Water Conservation and Groundwater Recharge

78670. Unless the context otherwise requires, the following definitions govern the construction of this article:

(a) (1) "Groundwater recharge facilities" means land and facilities for artificial groundwater recharge through methods which include, but are not limited to, percolation using basins, pits, ditches and furrows, modified streambed, flooding, and well injection and in-lieu recharge. "Groundwater recharge facilities" also means capital outlay expenditures to expand, renovate, or restructure land and facilities already in use for the purpose of groundwater recharge and to acquire additional land for retention and detention basins.

(2) Groundwater recharge facilities may include any of the following:

(A) Instream facilities for regulation of water levels, but not regulation of streamflow to accomplish diversion from the waterway.

(B) Agency-owned facilities for extraction.

(C) Conveyance facilities to the recharge site, including devices for flow regulation and measurement of recharge waters.

(3) Any part or all of the project facilities, including the land under the facilities, may consist of the separable features, or an appropriate share of multipurpose features, of a larger system, or both.

(b) "In-lieu recharge" means accomplishing increased storage of groundwater by providing interruptible surface water to a user who relies on groundwater as a primary supply, to accomplish groundwater storage through the direct use of that surface water in lieu of pumping groundwater. In-lieu recharge is used instead of continuing pumping while artificially recharging with the interruptible surface waters. However, bond proceeds may not be used to purchase surface water for use in lieu of pumping groundwater.

(c) "Local agency" or "agency" means any city, county, district, joint powers authority, or other political subdivision of the state involved with water management.

(d) "Project" means both of the following:

(1) Groundwater recharge facilities.

(2) Voluntary, cost-effective capital outlay water conservation programs.

(e) "Subaccount" means the Water Conservation and Groundwater Recharge Subaccount created by Section 78671.

(f) (1) "Voluntary, cost-effective capital outlay water conservation programs" mean those feasible capital outlay measures to improve the efficiency of water use through programs, the benefits of which exceed their costs.

(2) (A) The programs include, but are not limited to, all of the following:

(i) The lining or piping of ditches.

(ii) Improvements in water distribution system controls such as automated canal control, construction of small reservoirs within distribution systems that conserve water that has already been captured for use, and related physical improvements.

(iii) Tailwater pumpback recovery systems.

(iv) Major improvements or replacements of distribution systems to reduce leakage.

(v) Capital changes in on-farm irrigation systems which improve irrigation efficiency such as sprinkler or subsurface drip.

(vi) Capital outlay features of urban water conservation programs identified in the "Memorandum of Understanding Regarding Urban Water Conservation in California," as amended on March 9, 1994.

(vii) Conveyance facilities in a county of the third class, including appurtenances, necessary to implement a long-term conservation program to transfer conserved water from areas not directly receiving water from the bay-delta to areas that receive water from the bay-delta and whose demands on the bay-delta would be reduced as a result of the transfer.

(B) In each case, the department shall determine if there is a net savings of water as a result of each proposed project and the project is cost-effective.

78671. (a) There is hereby created in the account the Water Conservation and Groundwater Recharge Subaccount. The sum of thirty million dollars ($30,000,000) is hereby transferred from the account to the subaccount.

(b) Notwithstanding Section 13340 of the Government Code, the sum of twenty-five million dollars ($25,000,000) is hereby continuously appropriated, without regard to fiscal years, to the department, for loans to local agencies to aid in the acquisition and construction of voluntary, cost-effective capital outlay water conservation programs and groundwater recharge facilities.

78672. Any loan contract entered into pursuant to this article may include provisions determined to be necessary by the department.

78672.5. (a) Any loan contract concerning an eligible, voluntary, cost-effective capital outlay water conservation program shall be supported by, or shall include, all of the following:

(1) An estimate of the reasonable cost and benefit of the program.

(2) An agreement by the local agency to proceed expeditiously with, and complete, the program.

(3) A provision that there shall be no moratorium or deferment on payments of principal or interest.

(4) A loan period of not more than 20 years with an interest rate set at a rate equal to 50 percent of the interest rate paid by the state on the most recent sale of state general obligation bonds, to be computed according to the true interest cost method. If the interest rate so determined is not a multiple of one-tenth of 1 percent, the interest rate shall be set at the next higher multiple of one-tenth of 1 percent. The interest rate set for each contract shall be applied throughout the repayment period of the contract. There shall be a level annual repayment of principal and interest on the loans.

(5) A provision that the project shall not receive any more than five million dollars ($5,000,000) in loan proceeds from the department.

(b) The department shall give preference for loans under this section on the basis of the cost-effectiveness of the proposed project, with the most cost-effective projects receiving the highest preference.

78673. (a) Any loan contract concerning an eligible project for groundwater recharge shall be supported by, or shall include, all of the following:

(1) A finding by the department that the agency has the ability to repay the requested loan, that the project is economically justified, and that the project is feasible from an engineering and hydrogeologic viewpoint.

(2) An estimate of the reasonable cost and benefit of the project, including a feasibility report which shall set forth the economic justification and the engineering, hydrogeologic, and financial feasibility of the project, and shall include explanations of the proposed facilities and their relation to other water-related facilities in the basin or region.

(3) An agreement by the agency to proceed expeditiously to complete the project in conformance with the approved plans and specifications and the feasibility report and to operate and maintain the project properly upon completion throughout the repayment period.

(4) A provision that there shall be no moratorium or deferment on payment of principal or interest.

(5) A loan period of not more than 20 years with an interest rate set at a rate equal to 50 percent of the interest rate paid by the state on the most recent sale of state general obligation bonds, to be computed according to the true interest cost method. If the interest rate so determined is not a multiple of one-tenth of 1 percent, the interest rate shall be set at the next higher multiple of one-tenth of 1 percent. The interest rate set for each contract shall be applied throughout the repayment period of the contract. There shall be a level annual repayment of principal and interest on the loans.

(6) A provision that the project shall not receive more than five million dollars ($5,000,000) in loan proceeds from the department.

(b) The department shall give preference under this section to projects for groundwater recharge that are located in overdrafted groundwater basins and those projects of critical need, to projects whose feasibility studies show the greatest economic justification and the greatest engineering and hydrogeologic feasibility as determined by the department, and to projects located in areas which have existing water management programs.

78674. The department may make loans to local agencies, at the interest rates authorized under this article and under any terms and conditions as may be determined necessary by the department, for the purposes of financing feasibility studies of projects potentially eligible for funding under this article. No single project shall be eligible to receive more than one hundred thousand dollars ($100,000), and not more than 3 percent of the total amount of bonds authorized to be expended for purposes of this article may be expended for the purposes of financing feasibility studies. A loan for a feasibility study shall not decrease the maximum amount of any other loan which may be made under this article.

78675. Any repayments of loans made pursuant to this article, including interest payments, and all interest earned on, or accruing to, any money in the subaccount, shall be

deposited in the subaccount and shall be available for the uses described in this article.

78675.5. Notwithstanding Section 13340 of the Government Code, the sum of five million dollars ($5,000,000) in the subaccount is hereby continuously appropriated, without regard to fiscal years, to the department for a grant to a local agency for the development of supplemental water sources, distribution systems, and recharge facilities in a watershed that is in a state of overdraft and whose ability to locally finance the facilities has been adversely affected by the Base Closure and Realignment Act of 1990 (P.L. 101-510).

78676. Not more than 3 percent of the total amount deposited in the subaccount may be used to pay the costs incurred in connection with the administration of this article.

Article 4. Local Projects

78680. (a) (1) There is hereby created in the account the Local Projects Subaccount.

(2) For the purposes of this article "subaccount" means the Local Projects Subaccount created by paragraph (1).

(3) The sum of twenty-five million dollars ($25,000,000) is hereby transferred from the account to the subaccount for the purposes of implementing this article.

(b) Notwithstanding Section 13340 of the Government Code, the money in the subaccount is hereby continuously appropriated, without regard to fiscal years, to the department, for grants and loans in accordance with this article, and for the administration of this article.

78680.2. It is the intent of this article to finance a program to further the development, control, and conservation of the water resources of the state by assisting public agencies in the construction of eligible projects undertaken to meet local requirements in which there is a statewide interest.

78680.4. The following definitions govern the construction of this article:

(a) "Feasibility study" means a report on the feasibility of a project, dam, or reservoir. A feasibility study may include an environmental impact report prepared pursuant to Division 13 (commencing with Section 21000) of the Public Resources Code.

(b) "Project" means any of the following:

(1) The construction of a conveyance facility, pumping facility, groundwater extraction facility, clear or ranney well, or facility for diversion from existing storage or conveyance facilities undertaken by a public agency for the diversion, storage, or distribution of water primarily for domestic, municipal, agricultural, industrial, recreation, or fish and wildlife mitigation and enhancement purposes.

(2) Fish and wildlife mitigation and enhancement measures undertaken by a public agency, including the acquisition of lands which may be necessary for the mitigation of significant impact on fish and wildlife resources resulting from the implementation of a project undertaken pursuant to paragraph (1).

(c) "Public agency" means any city, county, city and county, special district or other political subdivision of the state, including a joint powers entity created pursuant to Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 of the Government Code, in a county of the 22nd class or any county having a smaller population than a county of the 22nd class on the date on which this division becomes effective.

78680.6. The department shall carry out this article and shall give preference to projects undertaken to develop new water supplies and to mitigate significant environmental impacts resulting from those projects.

78680.8. Applications for grants or loans for financial assistance under this article shall be made to the department in the form and with those supporting materials that are prescribed by the department.

78680.10. (a) The department may make grants to public agencies for feasibility studies.

(b) The amount of the grants may not exceed five hundred thousand dollars ($500,000).

78680.12. (a) The department may make loans to public agencies for projects. Loans for a single project may not exceed five million dollars ($5,000,000).

(b) All loan applications shall include information relating to the public necessity of the project, the urgency of need, the engineering feasibility, the economic justification, and the financial feasibility of the project, as well as other information that the department may require.

(c) All loans made pursuant to this section are subject to all of the following requirements:

(1) Public agencies requesting a loan shall demonstrate, to the satisfaction of the department, that an adequate opportunity for public participation regarding the loan has been provided.

(2) Any election held with respect to the loan shall include the voters of the entire agency except where the agency proposes to accept the loan on behalf of a specified portion, or portions, of the agency, in which case the election shall be held only in that portion or portions of the agency.

(3) Loan contracts may not provide for a moratorium on payment of principal or interest.

(4) Loans shall be for a period of up to 20 years. The interest rate for the loans shall be set at a rate of equal to 50 percent of the interest rate paid by the state on the most recent sale of state general obligation bonds, to be computed according to the true interest cost method. If the interest rate so determined is not a multiple of one-tenth of 1 percent, the interest rate shall be set at the next higher multiple of one-tenth of 1 percent. The interest rate set for each contract shall be applied throughout the contract's repayment period. There shall be a level annual repayment of principal and the interest on the loans.

78680.14. (a) The department may also make loans to public agencies for the acquisition of interest in lands that are necessary for the construction, operation, or maintenance of a project.

(b) Loans granted pursuant to this section shall be subject to all of the following conditions:

(1) The loan may be made for all or any part of the costs of acquiring interests in lands for a project that has been identified as the preferred alternative in an environmental impact report or an environmental impact statement, and the lands may become unavailable to the public agency for the purposes of developing that project.

(2) The loans shall not exceed one million dollars ($1,000,000) for each acquisition under this section.

(3) Each loan granted pursuant to this section is subject to subdivision (c) of Section 78680.12.

78680.16. Each contract which the department enters into for a loan pursuant to Section 78680.14 shall require the sale of the interests in lands that are acquired with the loan funds if, in the department's determination, the construction of the project has not commenced within a period of two years from the date of the first disbursement of loan funds under the contract or within any extension of such period that is granted by the department. In that event, the contract shall require that the interests in lands be offered for sale within six months from the expiration of the two-year period, or any extension thereof, and shall require that the proceeds of the sale be applied toward the repayment of the principal amount of the loan and toward the payment of the accrued interest thereon. Any remaining proceeds, after deducting the administrative costs of the public agency identified in connection with the purchase and sale of the interests in lands, shall be repaid to the department.

78680.18. Notwithstanding any provision of law, any land acquired with the use of loan funds made available pursuant to Section 78680.14, that is located outside the boundaries of the public agency acquiring the land and which was subject to taxation at the time of acquisition thereof, shall remain subject to taxation.

78680.20. (a) The department may adopt regulations to carry out this article. Notwithstanding any provisions of law, regulations adopted by the department pursuant to Chapter 2.3 (commencing with Section 450.1) of Division 2 of Title 23 of the California Code of Regulations that are in effect on November 6, 1996, may be used to carry out this article.

(b) Not more than 3 percent of the total amount deposited in the subaccount may be used to pay the costs incurred in connection with the administration of this article.

Article 5. Sacramento Valley Water Management and Habitat Protection Measures

78681. (a) There is hereby created in the account the Sacramento Valley Water Management and Habitat Protection Subaccount.

(b) For the purposes of this article, "subaccount" means the Sacramento Valley Water Management and Habitat Protection Subaccount created by subdivision (a).

78681.2. The sum of twenty-five million dollars ($25,000,000) is hereby transferred from the account to the subaccount for the purpose of implementing this article.

78681.4. Notwithstanding Section 13340 of the Government Code, the money in the subaccount is hereby continuously appropriated, without regard to fiscal years, to the department, for programs or projects in the Sacramento Valley to assist in the implementation of the Water Quality Control Plan for the Bay-Delta adopted by the board in Resolution No. 95-24 on May 22, 1995, and as it may be amended.

78681.8. The board shall provide adequate public review for proposed programs or projects and shall determine that those programs or projects are consistent with the requirements of Section 78681.4.

78681.9. Only the programs or projects that are not the obligation of the federal Central Valley Project or the State Water Project may be funded under this article.

78681.10. Not more than 3 percent of the total amount deposited in the subaccount for the use of the department may be used to pay the costs incurred in connection with the administration of this article by the department.

Article 6. River Parkway Program

78682. (a) (1) There is hereby created in the account the River Parkway Subaccount.

(2) For the purposes of this article, "subaccount" means the River Parkway Subaccount created by paragraph (1).

(b) The sum of twenty-seven million dollars ($27,000,000) is hereby transferred from the account to the subaccount for the purpose of implementing this article.

78682.2. The money in the subaccount shall be made available, upon appropriation by the Legislature, for the acquisition and restoration of riparian habitat, riverine aquatic habitat, and other lands in close proximity to rivers and streams and for river and stream trail projects undertaken in accordance with any of the following provisions:

(a) Chapter 4 (commencing with Section 1300) and Chapter 4.1 (commencing with Section 1385) of Division 2 of the Fish and Game Code.

(b) Chapter 5 (commencing with Section 31200), Chapter 6 (commencing with Section 31251), and Chapter 9 (commencing with Section 31400), of Division 21 of the Public Resources Code.

(c) Division 22.5 (commencing with Section 32500) of the Public Resources Code.

(d) Urban river park acquisition and restoration projects undertaken pursuant to Division 23 (commencing with Section 33000) of the Public Resources Code.

(e) River parkway projects undertaken by a state agency, city, county, city and county, or pursuant to a joint powers agreement between two or more of these entities.

78682.4. At least 50 percent of the funds in the subaccount shall be used for projects that are located in, or in close proximity to, major metropolitan areas.

78682.6. Not more than 3 percent of the total amount deposited in the subaccount may be used to pay the costs incurred in connection with the administration of this article.

CHAPTER 7. CALFED BAY-DELTA ECOSYSTEM RESTORATION PROGRAM

78684. Unless the context otherwise requires, all of the following definitions govern the construction of this chapter.

(a) "Account" means the Bay-Delta Ecosystem Restoration Account created by Section 78684.6.

(b) "Bay-delta ecosystem" means the bay-delta and its tributary watersheds.

(c) "CALFED Bay-Delta Program" or "program" means the undertaking by CALFED to develop, by means of the programmatic EIS/EIR, a preferred alternative of programs, actions, projects, and related activities which will provide solutions to identified problem areas related to the bay-delta ecosystem.

(d) (1) "Eligible project" means a project or program, or an element of a project or program, identified in the final programmatic EIS/EIR, that is intended to improve and increase aquatic and terrestrial habitats and improve ecological functions in the bay-delta ecosystem.

(2) Eligible projects may include, but are not limited to, projects or programs with any of the following purposes:

(A) The protection and enhancement of existing habitat.

(B) The restoration of tidal, shallow water, riparian, riverine, wetlands, and oth habitats.

(C) The expansion of wetlands protection programs.

(D) The acquisition of water for instream flow improvements.

(E) Improved habitat management.

(F) Improved management of introduced species.

(G) Improved fish protection and management.

(3) Eligible projects shall not include any of the following:

(A) Any water conveyance facilities.

(B) Any component of the CALFED Bay-Delta Program that is not identified in the final programmatic EIS/EIR as a component of the ecosystem restoration element.

(C) Any programs or projects undertaken to offset or avoid adverse environmental conditions which the final programmatic EIS/EIR determines would be caused by the construction, operation, or implementation of any element of the CALFED Bay-Delta Program other than the ecosystem restoration element.

(e) "Programmatic EIS/EIR" means the programmatic environmental impact statement/environmental impact report that is prepared by CALFED for the CALFED Bay-Delta Program.

78684.2. The Legislature hereby finds and declares all of the following:

(a) CALFED is in the process of preparing a programmatic EIS/EIR for a long-term comprehensive plan that will resolve problems related to ecosystem restoration, water quality, water supplies, and water management for beneficial uses of the bay-delta ecosystem, and system integrity.

(b) The CALFED Bay-Delta Program, to the extent that it relates to restoration in the bay-delta ecosystem, is of statewide and national importance. The state should participate in the funding of eligible projects as a part of its ongoing program to improve environmental conditions in the bay-delta ecosystem.

(c) The programmatic EIS/EIR will include a schedule for funding and implementing all elements of the long-term comprehensive plan.

(d) The CALFED Bay-Delta Program elements will achieve balanced solutions in all identified problem areas, including the ecosystem, water supply, water quality, and system integrity.

78684.4. This chapter does not authorize implementation of the CALFED Bay-Delta Program or any element of the program. The implementation of the CALFED Bay-Delta Program, or any element of the program, shall only be undertaken pursuant to authority provided by law other than this division.

78684.6. (a) The Bay-Delta Ecosystem Restoration Account is hereby created in the fund for the purpose of funding eligible projects. The sum of three hundred ninety million dollars ($390,000,000) is hereby transferred from the fund to the account.

(b) Notwithstanding Section 13340 of the Government Code, the money in the account is hereby continuously appropriated, without regard to fiscal years, to the Resources Agency for the purposes set forth in this chapter, and for the administration of this chapter.

78684.8. The Secretary of the Resources Agency shall carry out this chapter in accordance with procedures established by CALFED for the purposes of ecosystem restoration until the Legislature, by statute, authorizes another entity, that is recommended by CALFED, to carry out this chapter.

78684.10. No funds in the account may be expended until all of the following conditions have been met:

(a) The final programmatic EIS/EIR has been certified by the state lead agency and a notice of determination has been issued as required by Division 13 (commencing with Section 21000) of the Public Resources Code.

(b) The identical final programmatic EIS/EIR has been filed by the federal lead agencies with the Environmental Protection Agency, the required notice has been published in the Federal Register, and there has been federal approval of the identical program approved by the state.

(c) A cost-sharing agreement has been entered into by the State of California and the United States, pursuant to which the United States agrees to share in the costs of eligible projects.

78684.12. Due to the importance of issuing permits and otherwise expediting all elements of the CALFED Bay-Delta Program in a timely and balanced manner, the following procedures apply to the use of funds authorized by this chapter:

(a) After the requirements set forth in Section 78684.10 are met, funds in the account shall become available for use in accordance with the schedule for eligible projects set forth in the final programmatic EIS/EIR, unless and until the Secretary of the Resources Agency determines that the schedule established in the final programmatic EIS/EIR has not been substantially adhered to.

(b) Prior to November 15 of each year, the Secretary of the Resources Agency, in consultation with state and federal CALFED representatives and other interested persons and agencies, shall review adherence to the schedule.

(c) The absence of funding from nonfederal or nonstate sources shall not be a basis for a determination that the schedule has not been adhered to.

(d) If, at the conclusion of each annual review, the Secretary of the Resources Agency determines that the schedule established in the final programmatic EIS/EIR, or a revised schedule prepared pursuant to this subdivision, has not been substantially adhered to, the secretary, after notice to, and consultation with, state and federal CALFED representatives and other interested persons and agencies, shall prepare a revised schedule that ensures that balanced solutions in all identified problem areas, including ecosystem restoration, water supply, water quality, and system integrity are achieved, consistent with the intent of the final programmatic EIS/EIR. Funds shall be available for expenditure unless a revised schedule has not been developed within six months from the date on which the secretary determines that the prior schedule has not been substantially adhered to. Upon the preparation of any revised schedule under this subdivision, funds shall be expended in accordance with that revised schedule.

(e) Specific project and program decisions involving the expenditure of funds in the account shall be made in accordance with the procedures established by CALFED for the ecosystem restoration program.

78684.13. On or before December 15 of each year, the Secretary of the Resources Agency shall submit an annual report to the Legislature that describes the status of the implementation of all elements of the CALFED Bay-Delta Program, any determinations made by the secretary pursuant to subdivisions (b) and (d) of Section 74684.12, and other significant scheduling issues. The report also shall include a detailed accounting of expenditures, descriptions of programs for which expenditures have been made, and a schedule of anticipated expenditures for the next year.

78684.14. Not more than 3 percent of the total amount deposited in the account may be used to pay the costs incurred in connection with the administration of this chapter.

CHAPTER 8. FLOOD CONTROL AND PREVENTION PROGRAM

Article 1. Definitions

78686. Unless the context otherwise requires, as used in this chapter, "account" means the Flood Control and Prevention Account created by Section 78686.10.

Article 2. Flood Control and Prevention Program

78686.10. The Flood Control and Prevention Account is hereby created in the fund. The sum of sixty million dollars ($60,000,000) is hereby transferred from the fund to the account.

78686.12. (a) Notwithstanding Section 13340 of the Government Code, the money in the account is hereby continuously appropriated, without regard to fiscal years, to the department for the purposes set forth in subdivision (b).

(b) (1) The money in the account shall be used to pay for the state's share of the nonfederal costs of flood control and flood prevention projects that have been adopted and authorized in accordance with one or more of the following provisions of law:

(A) The State Water Resources Law of 1945 (Chapter 1 (commencing with Section 12570) and Chapter 2 (commencing with Section 12630) of Part 6 of Division 6).

(B) The Flood Control Law of 1946 (Chapter 3 (commencing with Section 12800) of Part 6 of Division 6).

(C) The California Watershed Protection and Flood Prevention Law (Chapter 4 (commencing with Section 12850) of Part 6 of Division 6).

(2) The money in the account may only be used to pay for costs for which valid written claims have been submitted to the department on or before June 30, 1996. Funds which are made available under this chapter shall be allocated on a pro rata basis to projects in the Counties of Contra Costa, Fresno, Kern, Los Angeles, Orange, Riverside, San Bernardino, San Diego, and Santa Clara, based on the amount of available funds relative to the total eligible claims.

CHAPTER 9. MISCELLANEOUS

78688. Nothing in this division diminishes, or otherwise affects, the requirements of the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) or the National Environmental Policy Act of 1969 (42 U.S.C. Sec. 4321 et seq.).

CHAPTER 10. FISCAL PROVISIONS

78690. The proceeds of bonds issued and sold pursuant to this division shall be deposited in the State Treasury to the credit of the Safe, Clean, Reliable Water Supply Fund, created by Section 78505.

78691. Bonds in the total amount of nine hundred ninety-five million dollars ($995,000,000), not including the amount of any refunding bonds issued in accordance with Section 78700, or as much thereof as is necessary, may be issued and sold to provide a fund to be used for carrying out the purposes expressed in this division and to be used to reimburse the General Obligation Bond Expense Revolving Fund pursuant to Section 16724.5 of the Government Code. The bonds, when sold, shall be and 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 of, and interest on, the bonds as the principal and interest become due and payable.

78692. (a) The bonds authorized by this division shall be prepared, executed, issued, sold, paid, and redeemed as provided in the State General Obligation Bond Law (Chapter 4 (commencing with Section 16720) of Part 3 of Division 4 of Title 2 of the Government Code), and all of the provisions of that law apply to the bonds and to this division and are hereby incorporated in this division as though set forth in full in this division.

(b) For purposes of the State General Obligation Bond Law, the State Water Resources Control Board is designated the "board."

78693. Solely for the purpose of authorizing the issuance and sale, pursuant to the State General Obligation Bond Law, of the bonds authorized by this division, the Safe, Clean, Reliable Water Supply Finance Committee is hereby created. For purposes of this division, the Safe, Clean, Reliable Water Supply Finance Committee is the "committee" as that term is used in the State General Obligation Bond Law. The committee consists of the Treasurer, the Controller, and the Director of Finance, or their designated representatives. A majority of the committee may act for the committee.

78694. The committee shall determine whether or not it is necessary or desirable to issue bonds authorized pursuant to this division in order to carry out the actions specified in this division and, if so, the amount of bonds to be issued and sold. Successive issues of bonds may be authorized and sold to carry out those actions progressively, and it is not necessary that all of the bonds authorized to be issued be sold at any one time.

78695. There shall be collected each year and in the same manner and at the same time as other state revenue is collected, in addition to the ordinary revenues of the state, a sum in an amount required to pay the principal of, and interest on, the bonds each year. It is the duty of all officers charged by law with any duty in regard to the collection of the revenue to do and perform each and every act which is necessary to collect that additional sum.

78696. Notwithstanding Section 13340 of the Government Code, there is hereby appropriated from the General Fund in the State Treasury, for the purposes of this division, an amount that will equal the total of the following:

(a) The sum annually necessary to pay the principal of, and interest on, bonds issued and sold pursuant to this division, as the principal and interest become due and payable.

(b) The sum necessary to carry out Section 78697, appropriated without regard to fiscal years.

78697. For the purposes of carrying out this division, the Director of Finance may authorize the withdrawal from the General Fund of an amount not to exceed the amount of the unsold bonds which have been authorized by the committee to be sold for the purpose of carrying out this division. Any amount withdrawn shall be deposited in the fund. Any money made available under this section shall be returned to the General Fund, plus an amount equal to the interest that the money would have earned in the Pooled Money Investment Account, from money received from the sale of bonds for the purpose of carrying out this division.

78698. All money deposited in the fund that is derived from premium and accrued interest

on bonds sold shall be reserved in the fund and shall be available for transfer to the General Fund as a credit to expenditures for bond interest.

78699. The State Water Resources Control Board may request the Pooled Money Investment Board to make a loan from the Pooled Money Investment Account in accordance with Section 16312 of the Government Code for the purposes of carrying out this division. The amount of the request shall not exceed the amount of the unsold bonds which the committee, by resolution, has authorized to be sold for the purpose of carrying out this division. The State Water Resources Control Board shall execute any documents required by the Pooled Money Investment Board to obtain and repay the loan. Any amounts loaned shall be deposited in the fund to be allocated by the State Water Resources Control Board in accordance with this division.

78700. The bonds may be refunded in accordance with Article 6 (commencing with Section 16780) of Chapter 4 of Part 3 of Division 4 of Title 2 of the Government Code, which is a part of the State General Obligation Bond Law. Approval by the voters of the state for the issuance of the bonds described in this division includes the approval of the issuance of any bonds issued to refund any bonds originally issued or any previously issued refunding bonds.

78701. Notwithstanding any provision of this division or the State General Obligation Bond Law, if the Treasurer sells bonds pursuant to this division that include a bond counsel opinion to the effect that the interest on the bonds is excluded from gross income for federal tax purposes, subject to designated conditions, the Treasurer may maintain separate accounts for the investment of bond proceeds and the investment earnings on those proceeds. The Treasurer may use or direct the use of those proceeds or earnings to pay any rebate, penalty, or other payment required under federal law or to take any other action with respect to the investment and use of bond proceeds required or desirable under federal law to maintain the tax-exempt status of those bonds and to obtain any other advantage under federal law on behalf of the funds of this state.

78702. The Legislature hereby finds and declares that, inasmuch as the proceeds from the sale of bonds authorized by this division are not "proceeds of taxes" as that term is used in Article XIII B of the California Constitution, the disbursement of these proceeds is not subject to the limitations imposed by that article.

SEC. 2. Section 13459.5 is added to the Water Code, to read:

13459.5. Unallocated funds remaining in the Agricultural Drainage Water Account in the 1986 Water Conservation and Water Quality Bond Fund on November 6, 1996, shall be transferred to the Drainage Management Subaccount, created by Section 78641, of the Clean Water and Water Recycling Account in the Safe, Clean, Reliable Water Supply Fund for the purposes of subdivision (b) of Section 78645.

SEC. 3. Section 14058 of the Water Code is amended to read:

14058. (a) The sum of thirty million dollars ($30,000,000) of the money in the fu shall be deposited in the Water Reclamation Account and, notwithstanding Section 1334(the Government Code, is hereby continuously appropriated to the board for the purposes o this section.

(b) The board may enter into contracts with local public agencies having authority to construct, operate, and maintain water reclamation projects, for loans to aid in the design and construction of eligible water reclamation projects. The board may loan up to 100 percent of the total eligible cost of design and construction of an eligible reclamation project.

(c) Any contract for an eligible water reclamation project entered into pursuant to this section may include such provisions as determined by the board and shall include both of the following provisions:

(1) An estimate of the reasonable cost of the eligible water reclamation project.

(2) An agreement by the local public agency to proceed expeditiously with, and complete, the eligible water reclamation project; commence operation of the project in accordance with applicable provisions of law, and provide for the payment of the local public agency's share of the cost of the project, including principal and interest on any state loan made pursuant to this section.

(d) Loan contracts may not provide for a moratorium on payments of principal or interest.

(e) Any loans made from the fund may be for a period of up to 20 years. The interest rate for the loans shall be set at a rate equal to 50 percent of the interest rate paid by the state on the most recent sale of state general obligation bonds, with that rate to be computed according to the true interest cost method. When the interest rate so determined, is not a multiple of one-tenth of 1 percent, the interest rate shall be set at the next higher multiple of one-tenth of 1 percent.

(f) All money repaid to the state pursuant to any contract executed under this chapter shall be deposited in the ~~General Fund as reimbursement for the payment of principal and interest on bonds authorized to be issued under this chapter.~~ *Water Recycling Subaccount, created by Section 78621, of the Clean Water and Water Recycling Account in the Safe, Clean, Reliable Water Supply Fund, for the purposes set forth in subdivision (b) of Section 78621.*

Proposition 205: Text of Proposed Law

This law proposed by Assembly Bill 3116 (Statutes of 1996, Chapter 160) is submitted to the people in accordance with the provisions of Article XVI of the Constitution.

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

PROPOSED LAW

SECTION 1. Title 4.95 (commencing with Section 4498) is added to Part 3 of the Penal Code, to read:

TITLE 4.95. YOUTHFUL AND ADULT OFFENDER LOCAL FACILITIES BOND ACT OF 1996

CHAPTER 1. GENERAL PROVISIONS

4498. This title shall be known and may be cited as the Youthful and Adult Offender Local Facilities Bond Act of 1996.

4498.1. The Legislature finds and declares all of the following:

(a) It is the intent of the Legislature to provide funding for the capital construction of local facilities for the treatment, rehabilitation, and punishment of juvenile offenders. Counties do not have sufficient options for providing a continuum of care for juvenile offenders that provides for all of the following:

(1) Effecting swift, certain, and effective correctional treatment and penalties for all juvenile offenders.

(2) Treating offenders whose criminality results from substance abuse or mental disorders.

(3) Requiring community service when appropriate.

(4) Ensuring appropriate supervision in secure and nonsecure settings.

(5) Promoting integrated service provisions for governmental and community-based organizations.

(6) Providing alternatives to commitment to the Youth Authority.

(b) Public safety is a primary function and consideration of government. As evidenced by the overwhelming support for Proposition 184, the "Three Strikes Initiative," on the November 8, 1994, general election ballot, the people of the State of California are demanding that violent, serious, and repeat felons be incarcerated with longer sentences. The passage of Proposition 184 is expected to adversely impact the capacity of local correctional facilities, creating a serious safety risk.

(c) Numerous county adult and juvenile facilities throughout California are dilapidated and overcrowded, and expansion of available bed capacity is critical. Capital improvements are necessary to protect the life and safety of persons confined or employed in these facilities, and to upgrade health and sanitary conditions to avoid threatened closures or the imposition of court-ordered sanctions.

4498.2. As used in this title, the following terms have the following meanings:

(a) "Committee" means the 1996 Youthful and Adult Offender Local Facilities Bond Finance Committee created pursuant to Section 4499.

(b) "Fund" means the 1996 Youthful Offender Local Facilities Bond Fund or the 1996 Adult Offender Local Facilities Bond Fund, created pursuant to Section 4498.3.

CHAPTER 2. PROGRAM

4498.3. Of the proceeds of bonds issued and sold pursuant to this title, three hundred fifty million dollars ($350,000,000) shall be deposited in the 1996 Youthful Offender Local Facilities Bond Fund, which is hereby created, and three hundred fifty million dollars ($350,000,000) shall be deposited in the 1996 Adult Offender Local Facilities Bond Fund, which is hereby created.

4498.4. (a) Moneys in the 1996 Youthful Offender Local Facilities Bond Fund shall be used for the construction, renovation to increase or maintain capacity, remodeling, and replacement of local facilities for the treatment, rehabilitation, and punishment of juvenile offenders, and may be used for capital improvements, rehabilitation, or renovation performed by local juvenile community service work crews. Up to 1½ percent of moneys in the fund m be used by the Board of Corrections for administration of this title.

(b) In order to be eligible to receive money for the purposes specified in this section, county shall apply in the manner and form prescribed by the Board of Corrections.

(c) Allocation of funds shall be subject to future appropriation by the Legislature, and shall be made based on the following criteria:

(1) County matching funds of at least 25 percent are provided as determined by the Legislature, except that this requirement may be modified or waived by the Legislature by statute where it determines that it is necessary to facilitate the expeditious and equitable construction of local correctional facilities. The greater the percentage of matching funds that a county provides, the higher priority the county shall be given for allocation of moneys.

(2) The county, or a group of counties acting together, has developed a plan that identifies the county continuum of care model for prevention, intervention, supervision, treatment, and detention of juvenile offenders. The plan shall identify how the county will maximize all funding sources (local criminal justice, local social services, federal and state programs, and education) for providing appropriate services for juvenile offenders. The plan shall demonstrate that the county has utilized, to the greatest extent practicable, alternatives to detention. The plan also shall identify the capital needs for fully providing the services outlined in the county model.

(d) Counties that have begun to plan, construct, or renovate facilities after January 1, 1995, but prior to the enactment of this title, remain eligible to receive state matching funds.

(e) Counties that contract with private providers for treatment or other services for offenders are eligible to apply for moneys from the fund.

4498.5. (a) Moneys in the 1996 Adult Offender Local Facilities Bond Fund shall be used for the construction, renovation to increase or maintain capacity, remodeling, and replacement of local facilities for the treatment, rehabilitation, and punishment of adult offenders. Up to 1½ percent of moneys in the fund may be used by the Board of Corrections for administration of this title.

(b) In order to be eligible to receive money for the purposes specified in this section, a county shall apply in the manner and form prescribed by the Board of Corrections.

(c) Allocation of funds shall be subject to future appropriation by the Legislature, and shall be made based on the following criteria:

(1) County matching funds of at least 25 percent are provided as determined by the Legislature, except that this requirement may be modified or waived by the Legislature by statute where it determines that it is necessary to facilitate the expeditious and equitable construction of local correctional facilities. The greater the percentage of matching funds that a county provides, the higher priority the county shall be given for allocation of moneys.

(2) The county, or a group of counties acting together, has developed a plan that identifies the county continuum of care model for prevention, intervention, supervision, treatment, and incarceration of adult offenders. The plan shall identify how the county will maximize funding sources (local criminal justice, local social services, federal and state programs, education) for providing appropriate services for adult offenders. The plan shall demonstrate that the county has utilized, to the greatest extent practicable, alternatives to jail incarceration. The plan also shall identify the capital needs for fully providing the services outlined in the county model.

(d) Counties that have begun to plan, construct, or renovate facilities after January 1,

1995, but prior to the enactment of this title, remain eligible to receive state matching funds.

(e) Counties that contract with private providers for treatment or other services for offenders are eligible to apply for moneys from the fund.

4498.6. (a) The Youthful and Adult Offender Local Facilities Financing Authority is hereby created in the Board of Corrections. The composition of the authority shall be ntified in future legislation. The authority shall evaluate plans prepared pursuant to paragraph (2) of subdivision (c) of Section 4498.4 and paragraph (2) of subdivision (c) of Section 4498.5, approve funding, and administer funds appropriated as specified in subdivision (c) of Section 4498.4 and subdivision (c) of Section 4498.5. Staff support to the authority shall be performed by existing Board of Corrections staff. In addition, the authority may allocate any state and federal juvenile justice grant funds that are appropriated to it by the Legislature.

(b) The Board of Corrections shall not be deemed a responsible agency, as defined in Section 21069 of the Public Resources Code, or otherwise be subject to the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) for any activities undertaken or funded pursuant to this title. This subdivision does not exempt any local agency from the requirements of the California Environmental Quality Act.

4498.7. Money in the funds may only be expended for projects specified in this title as allocated in appropriations made by the Legislature.

CHAPTER 3. FISCAL PROVISIONS

4498.8. Bonds in the total amount of seven hundred million dollars ($700,000,000), exclusive of refunding bonds, or so much thereof as is necessary, may be issued and sold to provide funds to be used for carrying out the purposes expressed in this title 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 of, and interest on, the bonds as the principal and interest become due and payable.

4498.9. The bonds authorized by this title shall be prepared, executed, issued, sold, paid, and redeemed as provided in the State General Obligation Bond Law (Chapter 4 (commencing with Section 16720) of Part 3 of Division 4 of Title 2 of the Government Code), and all of the provisions of that law apply to the bonds and to this title and are hereby incorporated in this title as though set forth in full in this title.

4499. (a) Solely 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 1996 Youthful and Adult Offender Local Facilities Bond Finance Committee is hereby created. For purposes of this title, the 1996 Youthful and Adult Offender Local Facilities Bond Finance Committee is "the committee" as that term is used in the State General Obligation Bond Law. The committee consists of the Controller, the Treasurer, the Director of Finance, and the Chair of the Board of Corrections, or their designated representatives. The Treasurer shall serve as chairperson of the committee. A majority of the committee may act for the committee.

(b) For purposes of the State General Obligation Bond Law, the Youthful and Adult Offender Local Facilities Financing Authority in the Board of Corrections is designated the "board."

4499.1. The committee shall determine whether or not it is necessary or desirable to issue bonds authorized pursuant to this title in order to carry out the actions specified in Sections 4498.4 and 4498.5 and, if so, the amount of bonds to be issued and sold. Successive issues of bonds may be authorized and sold to carry out those actions progressively, and it is not necessary that all of the bonds authorized to be issued be sold at any one time.

4499.2. There shall be collected each year and in the same manner and at the same time as other state revenue is collected, in addition to the ordinary revenues of the state, a sum in an amount required to pay the principal of, and interest on, the bonds each year, and it is the duty of all officers charged by law with any duty in regard to the collection of the revenue to do and perform each and every act that is necessary to collect that additional sum.

4499.3. Notwithstanding Section 13340 of the Government Code, there is hereby appropriated from the General Fund in the State Treasury, for the purposes of this title, an amount that will equal the total of the following:

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

(b) The sum which is necessary to carry out the provisions of Section 4499.4, appropriated without regard to fiscal years.

4499.4. For the purposes of carrying out this title, the Director of Finance may authorize the withdrawal from the General Fund of an amount or amounts not to exceed the amount of the unsold bonds that have been authorized by the committee to be sold for the purpose of carrying out this title. Any amounts withdrawn shall be deposited in the funds created in Section 4498.3. Any money made available under this section shall be returned to the General Fund, plus an amount equal to the interest the money would have earned in the Pooled Money Investment Account, from money received from the sale of bonds for the purpose of carrying out this title.

4499.5. All money deposited in the funds that is derived from premium and accrued interest on bonds sold shall be reserved in the fund and shall be available for transfer to the General Fund as a credit to expenditures for bond interest.

4499.6. The bonds may be refunded in accordance with Article 6 of the State General Obligation Bond Law.

4499.7. The board may request the Pooled Money Investment Board to make a loan from the Pooled Money Investment Account, in accordance with Section 16312 of the Government Code, for the purpose of carrying out this title. The amount of the request shall not exceed the amount of the unsold bonds that the committee has, by resolution, authorized to be sold for the purpose of carrying out this title. The board shall execute those documents required by the Pooled Money Investment Board to obtain and repay the loan. Any amounts loaned shall be deposited in the fund to be allocated by the board in accordance with this title.

4499.8. Notwithstanding any other provision of this title, or of the State General Obligation Bond Law, if the Treasurer sells bonds that include a bond counsel opinion to the effect that the interest on the bonds is excluded from gross income for federal tax purposes subject to designated conditions, the Treasurer may maintain separate accounts for the bond proceeds invested and for the investment earnings on those proceeds, and may use or direct the use of those proceeds or earnings to pay any rebate, penalty, or other payment required under federal law or take any other action with respect to the investment and use of those bond proceeds that is required or desirable under federal law in order to maintain the tax-exempt status of those bonds and to obtain any other advantage under federal law on behalf of the funds of this state.

4499.9. The Legislature hereby finds and declares that, inasmuch as the proceeds from the sale of bonds authorized by this title 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.

Proposition 206: Text of Proposed Law

This law proposed by Senate Bill 852 (Statutes of 1996, Chapter 161) is submitted to the people in accordance with the provisions of Article XVI of the Constitution.

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

PROPOSED LAW

SEC. 2. Article 5v (commencing with Section 998.200) is added to Chapter 6 of Division 4 of the Military and Veterans Code, to read:

Article 5v. Veterans' Bond Act of 1996

998.200. This article may be cited as the Veterans' Bond Act of 1996.

998.201. (a) The State General Obligation Bond Law (Chapter 4 (commencing with Section 16720) of Part 3 of Division 4 of Title 2 of the Government Code), except as otherwise provided herein, is adopted for the purpose of the issuance, sale, and repayment of, and otherwise providing with respect to, the bonds authorized to be issued by this article, and the provisions of that law are included in this article as though set out in full in this article. All references in this article to "herein" refer both to this article and that law.

(b) For purposes of the State General Obligation Bond Law, the Department of Veterans Affairs is designated the board.

998.202. As used herein, the following words have the following meanings:

(a) "Board" means the Department of Veterans Affairs.

(b) "Bond" means veterans' bond, a state general obligation bond, issued pursuant to this article adopting the provisions of the State General Obligation Bond Law.

(c) "Bond act" means this article authorizing the issuance of state general obligation bonds and adopting the State General Obligation Bond Law by reference.

(d) "Committee" means the Veterans' Finance Committee of 1943, established by Section 991.

(e) "Fund" means the Veterans' Farm and Home Building Fund of 1943, established by Section 988.

998.203. For the purpose of establishing a fund to provide farm and home aid for veterans in accordance with the Veterans' Farm and Home Purchase Act of 1974 (Article 3.1 (commencing with Section 987.50)), and of all acts amendatory thereof and supplemental thereto, the committee may create a debt or debts, liability or liabilities, of the State of California, in the aggregate amount of not more than four hundred million dollars ($400,000,000) exclusive of refunding bonds, in the manner provided herein.

998.204. (a) All bonds authorized by this article, when duly sold and delivered as provided herein, constitute valid and legally binding general obligations of the State of California, and the full faith and credit of the State of California is hereby pledged for the punctual payment of both principal and interest thereof.

(b) There shall be collected annually in the same manner and at the same time as other state revenue is collected a sum of money, in addition to the ordinary revenues of the state, sufficient to pay the principal of, and interest on, these bonds as provided herein, and all officers required by law to perform any duty in regard to the collection of state revenues shall collect this additional sum.

(c) On the dates on which funds are to be remitted pursuant to Section 16676 of the Government Code for the payment of debt service on the bonds in each fiscal year, there shall be transferred to the General Fund to pay the debt service all of the money in the fund, not in excess of the amount of debt service then due and payable. If the money so transferred on the remittance dates is less than the debt service then due and payable, the balance remaining unpaid shall be transferred to the General Fund out of the fund as soon as it shall become available, together with interest thereon from the remittance date until paid, at the same rate of interest as borne by the bonds, compounded semiannually. Notwithstanding any other provision of law to the contrary, this subdivision shall apply to all veterans farm and home purchase bond acts pursuant to this chapter. This subdivision does not grant any lien on the fund or the moneys therein to the holders of any bonds issued under this article. For the purposes of the subdivision, "debt service" means the principal (whether due at maturity, by redemption, or acceleration), premium, if any, or interest payable on any date with respect to any series of bonds. This subdivision shall not apply, however, in the case of any debt service that is payable from the proceeds of any refunding bonds.

998.205. There is hereby appropriated from the General Fund, for purposes of this article, a sum of money that will equal both of the following:

(a) That sum annually necessary to pay the principal of, and the interest on, the bonds issued and sold as provided herein, as that principal and interest become due and payable.

(b) That sum necessary to carry out Section 998.206, appropriated without regard to fiscal years.

998.206. For purposes of this article, the Director of Finance may, by executive order, authorize the withdrawal from the General Fund of a sum of money not to exceed the amount of the unsold bonds which have been authorized by the committee to be sold pursuant to this

article. Any sums withdrawn shall be deposited in the fund. All money made available under this section to the board shall be returned by the board to the General Fund, plus the interest that the amounts would have earned in the Pooled Money Investment Account, from the sale of bonds for the purpose of carrying out this article.

998.207. The board may request the Pooled Money Investment Board to make a loan from the Pooled Money Investment Account, in accordance with Section 16312 of the Government Code, for the purposes of carrying out this article. The amount of the request shall not exceed the amount of unsold bonds which the committee has, by resolution, authorized to be sold for the purpose of carrying out this article. The board shall execute whatever documents are required by the Pooled Money Investment Board to obtain and repay the loan. Any amounts loaned shall be deposited in the fund to be allocated by the board in accordance with this article.

998.208. Upon request of the board, supported by a statement of its plans and projects approved by the Governor, the committee shall determine whether to issue any bonds authorized under this article in order to carry out the board's plans and projects, and, if so, the amount of bonds to be issued and sold. Successive issues of bonds may be authorized and sold to carry out these plans and projects progressively, and it is not necessary that all the bonds be issued or sold at any one time.

998.209. So long as any bonds authorized under this article are outstanding, the Director of Veterans Affairs shall, at the close of each fiscal year, require a survey of the financial condition of the Division of Farm and Home Purchases, together with a projection of the division's operations, to be made by an independent public accountant of recognized standing. The results of each survey and projection shall be reported in writing by the public accountant to the Director of Veterans Affairs, the California Veterans Board, and the committee.

The Division of Farm and Home Purchases shall reimburse the public accountant for these services out of any money which the division may have available on deposit with the Treasurer.

998.210. The committee may authorize the Treasurer to sell all or any part of the bonds authorized by this article at the time or times established by the Treasurer.

Whenever the committee deems it necessary for an effective sale of the bonds, the committee may authorize the Treasurer to sell any issue of bonds at less than their par value, notwithstanding Section 16754 of the Government Code. However, the discount on the bonds shall not exceed 3 percent of the par value thereof.

998.211. Out of the first money realized from the sale of bonds as provided herein, there shall be redeposited in the General Obligation Bond Expense Revolving Fund, established by Section 16724.5 of the Government Code, the amount of all expenditures made for the purposes specified in that section, and this money may be used for the same purpose and repaid in the same manner whenever additional bond sales are made.

998.212. Any bonds issued and sold pursuant to this article may be refunded in accordance with Article 6 (commencing with Section 16780) of Chapter 4 of Part 3 of Division 2 of Title 2 of the Government Code. The approval of the voters for the issuance of bonds under this article includes approval for the issuance of bonds issued to refund bonds originally issued or any previously issued refunding bonds.

998.213. Notwithstanding any provision of the bond act, if the Treasurer sells bonds under this article for which bond counsel has issued an opinion to the effect that the interest on the bonds is excludable from gross income for purposes of federal income tax, subject to any conditions which may be designated, the Treasurer may establish separate accounts for the investment of bond proceeds and for the earnings on those proceeds, and may use those proceeds or earnings to pay any rebate, penalty, or other payment required by federal law or take any other action with respect to the investment and use of bond proceeds required or permitted under federal law necessary to maintain the tax-exempt status of the bonds or to obtain any other advantage under federal law on behalf of the funds of this state.

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

998.215. Notwithstanding any other provision of law, any bonds issued and sold under the Veterans Bond Act of 1974, the Veterans Bond Act of 1976, the Veterans Bond Act of 1978, the Veterans Bond Act of 1980 or the Veterans Bond Act of 1986 may be refunded in accordance with Article 6 (commencing with Section 16780) of Chapter 4 of Part 3 of Division 4 of Title 2 of the Government Code, without regard to the first sentence of Section 16786 of the Government Code.

Proposition 207: Text of Proposed Law

This initiative measure is submitted to the people in accordance with the provisions of Article II, Section 8 of the Constitution.

This initiative measure amends and adds sections to various codes; therefore, existing provisions proposed to be deleted are printed in ~~strikeout type~~ and new provisions proposed to be added are printed in *italic type* to indicate that they are new.

PROPOSED LAW

FRIVOLOUS LAWSUIT LIMITATION ACT

SECTION 1. TITLE

This initiative shall be known and may be cited as the "Frivolous Lawsuit Limitation Act."

SECTION 2. FINDINGS AND DECLARATIONS

The People of the State of California find and declare:

(a) Frivolous lawsuits and frivolous defenses clog our courts, cost taxpayers money, and delay the legal process.

(b) Lawyers who file frivolous lawsuits or frivolous defenses violate their ethical obligations as officers of the court and should be punished.

(c) Lawyers who file frivolous lawsuits or defenses should not be paid.

(d) Injured people who have legitimate legal claims have the same right to contract freely with the attorney of their choice as do corporations and wealthy individuals.

(e) People with legitimate claims need to be protected against some attorneys who are able to manipulate the system so that they collect enormous fees for almost no work.

(f) The most effective way to preserve the rights of consumers, corporations, and small businesses to contract freely while at the same time protecting them from unscrupulous attorneys is to allow clients to ask the courts to decide whether an attorney's fee is excessive.

THEREFORE, THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 3. SANCTIONS AND DISCIPLINE FOR FRIVOLOUS LAWSUITS AND FRIVOLOUS DEFENSES

Section 6089.5 is added to the Business and Professions Code, to read:

6089.5. (a) If, after using the notice and procedures contained in Section 128.7 of the Code of Civil Procedure, a court determines that an attorney or law firm has filed a frivolous lawsuit or a frivolous answer or other responsive pleading to a lawsuit, the court shall impose appropriate sanctions upon the attorney or law firm.

(b) (1) For purposes of this section, a frivolous lawsuit or frivolous answer or other responsive pleading to a lawsuit is one that is either (A) totally and completely without merit, or (B) filed for the sole purpose of harassing an opposing party.

(2) For purposes of this section, an appropriate sanction is one that is sufficient to deter repetition of this conduct or comparable conduct by others similarly situated.

(c) No attorney against whom sanctions have been imposed pursuant to subdivision (a) shall collect or retain any fee for services performed in connection with a lawsuit in which the court has imposed sanctions under this section and a final judgment has been entered and all appeals have been exhausted, unless the attorney can demonstrate that he or she has been misled by the misrepresentation or mistake of the client with regard to one or more facts material to the case.

(d) After a final judgment has been entered and all appeals have been exhausted, a court that has imposed sanctions upon an attorney or law firm pursuant to subdivision (a) shall notify the State Bar. The notification shall include the sanctions order, any written findings related thereto, including the name or names of the attorneys involved, and those portions of the record relevant to the order. The attorney or law firm against whom sanctions have been imposed shall reimburse the court for all expenses incurred in reporting to the State Bar pursuant to this section.

(e) Upon notification from the court that sanctions have been imposed and the matter has been referred to the State Bar, the attorney and his or her law firm shall immediately notify the client or clients in writing that sanctions have been imposed for the attorney's conduct of the case.

(f) If the State Bar determines that it has received three notifications of sanctions against the same attorney pursuant to subdivision (a) within the past five years, after considering all relevant circumstances, the State Bar shall recommend appropriate discipline, including, but not limited to, suspension or disbarment, to the Supreme Court.

(g) Reprovals and other disciplinary measures taken by the State Bar pursuant to this section shall be a matter of public record.

Code of Civil Procedure Section 128.7 is amended as follows:

128.7. (a) Every pleading, petition, written notice of motion, or other similar paper shall be signed by at least one attorney of record in the attorney's individual name, or, if the party is not represented by an attorney, shall be signed by the party. Each paper shall state the signer's address and telephone number, if any. Except when otherwise provided by law, pleadings need not be verified or accompanied by affidavit. An unsigned paper shall be stricken unless omission of the signature is corrected promptly after being called to the attention of the attorney or party.

(b) By presenting to the court, whether by signing, filing, submitting, or later advocating, a pleading, petition, written notice of motion, or other similar paper, an attorney or unrepresented party is certifying that to the best of the person's knowledge, information, and belief, formed after an inquiry reasonable under the circumstances, all of the following conditions are met:

(1) It is not being presented primarily for an improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation.

(2) The claims, defenses, and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law.

(3) The allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery.

(4) The denials of factual contentions are warranted on the evidence or, if specifically so identified, are reasonably based on a lack of information or belief.

(c) If, after notice and a reasonable opportunity to respond, the court determines that subdivision (b) has been violated, the court may, subject to the conditions stated below, impose an appropriate sanction upon the attorneys, law firms, or parties that have violated subdivision (b) or are responsible for the violation. In determining what sanctions, if any, should be ordered, the court shall consider whether a party seeking sanctions has exercised due diligence.

(1) A motion for sanctions under this section shall be made separately from other motions or requests and shall describe the specific conduct alleged to violate subdivision (b). Notice of motion shall be served as provided in Section 1010, but shall not be filed with or presented to the court unless, within 30 days after service of the motion, or such other period as the co may prescribe, the challenged paper, claim, defense, contention, allegation, or denial is withdrawn or appropriately corrected. If warranted, the court may award to the party prevailing on the motion the reasonable expenses and attorney's fees incurred in presenting or opposing the motion. Absent exceptional circumstances, a law firm shall be held jointly responsible for violations committed by its partners, associates, and employees.

(2) On its own motion, the court may enter an order describing the specific conduct that

appears to violate subdivision (b) and directing an attorney, law firm, or party to show cause why it has not violated subdivision (b), unless, within 30 days of service of the order to show cause, the challenged paper, claim, defense, contention, allegation, or denial is withdrawn or appropriately corrected.

(d) A sanction imposed for violation of subdivision (b) shall be limited to what is sufficient to deter repetition of this conduct or comparable conduct by others similarly situated. Subject to the limitations in paragraphs (1) and (2), the sanction may consist of, or include, directives of a nonmonetary nature, an order to pay a penalty into court, or, if imposed on motion and warranted for effective deterrence, an order directing payment to the movant of some or all of the reasonable attorney's fees and other expenses incurred as a direct result of the violation.

(1) Monetary sanctions may not be awarded against a represented party for a violation of paragraph (2) of subdivision (b).

(2) Monetary sanctions may not be awarded on the court's motion unless the court issues its order to show cause before a voluntary dismissal or settlement of the claims made by or against the party that is, or whose attorneys are, to be sanctioned.

(e) When imposing sanctions, the court shall describe the conduct determined to constitute a violation of this section and explain the basis for the sanction imposed.

(f) In addition to any award pursuant to this section for conduct described in subdivision (b), the court may assess punitive damages against the plaintiff upon a determination by the court that the plaintiff's action was an action maintained by a person convicted of a felony against the person's victim, or the victim's heirs, relatives, estate, or personal representative, for injuries arising from the acts for which the person was convicted of a felony, and that the plaintiff is guilty of fraud, oppression, or malice in maintaining the action.

(g) This section shall not apply to disclosures and discovery requests, responses, objections, and motions.

(h) A motion for sanctions brought by a party or a party's attorney primarily for an improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation, shall itself be subject to a motion for sanctions. It is the intent of the Legislature that ~~courts~~ *a court* shall vigorously use its sanctions authority to deter such improper conduct or comparable conduct by others similarly situated.

(i) This section shall apply to a complaint or petition filed on or after January 1, 1995, and any other pleading, written notice of motion, or other similar paper filed in such a matter.

(j) ~~This section shall remain in effect only until January 1, 1999, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 1999, deletes or extends that date.~~ *If a court imposes sanctions on an attorney or law firm pursuant to this section, it shall notify the State Bar if the sanctions were imposed for filing a frivolous lawsuit or a frivolous answer or other responsive pleading to a lawsuit pursuant to Section 6089.5 of the Business and Professions Code. The notification shall include the sanctions order, any written findings related thereto, and those portions of the record relevant to the order. The attorney or law firm against whom sanctions have been imposed shall reimburse the court for all expenses incurred in reporting to the State Bar pursuant to this subdivision.*

SECTION 4. CLIENTS' RIGHT TO HIRE AND FIRE ATTORNEY

Section 6146.5 is added to the Business and Professions Code, to read:

6146.5. (a) Except as otherwise provided by law in effect on January 1, 1995 or by the provisions of the act adding this section, the right of a client or a client's representative to choose and contract with the attorney of his or her choice shall not be restricted, nor shall the right of a client or the client's representative to negotiate the amount of an attorney's fee, whether fixed, hourly, or contingent, be restricted or the validity of those contracts be impaired.

(b) A client shall have the right to discharge his or her attorney at any time during the course of the representation.

(c) Notwithstanding the terms of any contract entered into pursuant to Section 6146, 6147, or 6148, attorneys who are discharged before a case is finally concluded shall be entitled to compensation only as set forth below:

(1) Attorneys who have entered into contingency fee contracts pursuant to Section 6146 or 6147 shall be entitled to compensation only in the event the client recovers an award or settlement in the matter for which the attorney had been retained. In the event of such an award or settlement, the attorney shall be entitled to any unreimbursed expenses advanced or incurred by the attorney during the course of the representation and to the reasonable value of the attorney's services rendered to the time of discharge.

(2) Attorneys who have entered into hourly rate contracts for services pursuant to Section 6148 shall be entitled to payment at the agreed-upon rate for reasonable services rendered and expenses advanced or incurred during the course of the representation to the time of discharge. Attorneys who have contracted for a flat fee or any other method of compensation not subject to Section 6146 or 6147 shall be entitled to any unreimbursed expenses advanced or incurred and the reasonable value of their services to the time of discharge.

(d) Nothing in this section shall limit or otherwise affect any law in effect on January 1, 1995, with regard to attorney's fees, or impair the inherent authority of the courts to regulate the practice of law or to prohibit illegal or unconscionable fees, or the authority of a court in a particular case to find that a fee is excessive pursuant to Section 6146.1.

SECTION 5. RELIEF FROM EXCESSIVE ATTORNEYS' FEES

Section 6146.1 is added to the Business and Professions Code, to read:

6146.1. (a) No attorney shall enter into an agreement for, charge, or collect an excessive fee.

(b) In addition to any other remedies at law, a client may bring an action against an attorney to seek declaratory relief that a fee agreement or a portion of the fee required by that agreement is excessive, or to recover that portion of a fee collected or withheld that is excessive.

(c) In addition to any other remedies at law, in an action brought by an attorney against a client for breach of a fee agreement, the client may file a cross-complaint or assert an affirmative defense alleging that the fee agreement or a portion of the fee required by that agreement is excessive.

(d) For purposes of the act adding this section, an excessive fee is defined as one that is unconscionable. In determining whether a fee or a fee agreement is unconscionable, the court shall consider the following factors, in light of all the facts and circumstances:

(1) The amount of the fee in proportion to the value of the services performed.

(2) The relative sophistication of the attorney and the client.

(3) The novelty and difficulty of the questions involved and the skill requisite to perform the legal service properly.

(4) The fact or likelihood that the acceptance of the particular employment would or did preclude other employment by the attorney.

(5) The amount involved and the results obtained.

(6) The time limitations imposed by the client or by circumstances.

(7) The nature and length of the professional relationship with the client.

(8) The experience, reputation, and ability of the attorney performing the services, including his or her capacity because of that reputation or ability to secure a better result for the client.

(9) Whether the fee is fixed, hourly, or contingent, including whether the fee reflects the risk that the representation could result in little or no recovery.

(10) The time and labor required.

(11) The informed consent of the client to the fee agreement.

(12) Whether the attorney has advanced costs in furtherance of the representation, and the amount thereof.

(13) Any other fact or circumstance relevant to the conscionability of the fee.

(e) Nothing in this section shall affect the right of the attorney to be reimbursed for actual costs advanced or incurred.

SECTION 6. RELATIONSHIP TO OTHER INITIATIVES

The people recognize that more than one measure dealing with the general matters set forth in this measure may be on the ballot at the same time. It is the intent of the voters in passing this measure that it be considered, for purposes of subdivision (b) of Section 10 of Article II of the California Constitution, to be in conflict with the "Lawyer Contingency Fee Limitation Act" and any other similar measure attempting to limit the right of a client and an attorney to contract with each other for legal services and to enforce those contracts.

SECTION 7. SEVERABILITY

If any provision of this act or its application to any person or circumstance is held invalid, that invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

SECTION 8. AMENDMENT

The provisions of this act may be amended by a statute that becomes effective upon approval by the electorate or by a statute to further the act's purposes passed by a two-thirds vote of each house of the Legislature and signed by the Governor.

Proposition 208: Text of Proposed Law

This initiative measure is submitted to the people in accordance with the provisions of Article II, Section 8 of the Constitution.

This initiative measure amends, repeals, and adds sections to various codes; therefore, existing provisions proposed to be deleted are printed in ~~strikeout type~~ and new provisions proposed to be added are printed in *italic type* to indicate that they are new.

PROPOSED LAW

CALIFORNIA POLITICAL REFORM ACT OF 1996

SECTION 1. Article 1 (commencing with Section 85100) of Chapter 5 of Title 9 of the Government Code is repealed.

SEC. 2. Article 1 (commencing with Section 85100) is added to Chapter 5 of Title 9 of the Government Code, to read:

Article 1. Findings and Purposes

85100. This chapter shall be known as the California Political Reform Act of 1996.

85101. The people find and declare each of the following:

(a) Monetary contributions to political campaigns are a legitimate form of participation in the American political process, but the financial strength of individuals or organizations should not permit them to exercise a controlling influence on the election of candidates.

(b) The rapidly increasing costs of political campaigns have forced many candidates to raise larger and larger percentages of money from interest groups with a specific financial stake in matters before state and local government.

85102. The people enact this law to accomplish the following separate but related purposes:

(a) To ensure that individuals and interest groups in our society have a fair and equitable opportunity to participate in the elective and governmental processes.

(b) To minimize the potentially corrupting influence and appearance of corruption caused by excessive contributions and expenditures in campaigns by providing for reasonable contribution and spending limits for candidates.

(c) To reduce the influence of large contributors with a specific financial stake in matters before government by severing the link between lobbying and campaign fundraising.

(d) To lessen the potentially corrupting pressures on candidates and officeholders for fundraising by establishing sensible time periods for soliciting and accepting campaign contributions.

(e) To limit overall expenditures in campaigns, thereby allowing candidates and officeholders to spend a lesser proportion of their time on fundraising and a greater proportion of their time communicating issues of importance to voters and constituents.

(f) To provide impartial and noncoercive incentives that encourage candidates to voluntarily limit campaign expenditures.

(g) To meet the citizens' right to know the sources of campaign contributions, expenditures, and political advertising.

(h) To enact tough penalties that will deter persons from violating this chapter and the Political Reform Act of 1974.

SEC. 3. Article 2 (commencing with Section 85202) is added to Chapter 5 of Title 9 of the Government Code, to read:

Article 2. Applicability of the Political Reform Act of 1974

85202. Unless specifically superseded by this act, the definitions and provisions of this title shall govern the interpretation of this law.

85203. "Small contributor committee" means any committee which meets all of the following criteria:

(a) It has a membership of at least 100 individuals.

(b) All the contributions it receives from any person in a calendar year total fifty dollars ($50) or less.

(c) It has been in existence at least six months.

(d) It is not a candidate-controlled committee.

85204. "Two-year period" means the period commencing with January 1 of an odd-numbered year and ending with December 31 of the next even-numbered year.

85205. "Political party committee" means the state central committee or county central committee of an organization that meets the requirements for recognition as a political party pursuant to Section 5100 of the Elections Code.

85206. "Public moneys" has the same meaning as defined in Section 426 of the Penal Code.

SEC. 4. Section 85301 of the Government Code is repealed.

~~85301. (a) No person shall make, and no candidate for elective office, or campaign treasurer, shall solicit or accept any contribution or loan which would cause the total amount contributed or loaned by that person to that candidate, including contributions or loans to all committees controlled by the candidate, to exceed one thousand dollars ($1,000) in any fiscal year.~~

~~(b) The provisions of this section shall not apply to a candidate's contribution of his or her personal funds to his or her own campaign contribution account.~~

SEC. 5. Section 85301 is added to the Government Code, to read:

85301. (a) Except as provided in subdivision (a) of Section 85402 and Section 85706, no person, other than small contributor committees and political party committees, shall make to any candidate or the candidate's controlled committee for local office in districts with fewer than 100,000 residents, and no such candidate or the candidate's controlled committee shall accept from any person a contribution or contributions totaling more than one hundred dollars ($100) for each election in which the candidate is attempting to be on the ballot or is a write-in candidate.

(b) Except as provided in subdivision (b) of Section 85402 and Section 85706, no person, other than small contributor committees and political party committees, shall make to any candidate or the candidate's controlled committee campaigning for office in districts of 100,000 or more residents, and no such candidate or the candidate's controlled committee shall accept from any such person a contribution or contributions totaling more than two hundred fifty dollars ($250) for each election in which the candidate is attempting to be on the ballot or is a write-in candidate.

(c) Except as provided in subdivision (c) of Section 85402, no person, other than small contributor committees and political party committees, shall make to any candidate or the candidate's controlled committee for statewide office, and no such candidate or the candidate's controlled committee shall accept from any such person a contribution or contributions totaling more than five hundred dollars ($500) for each election in which the candidate is attempting to be on the ballot or is a write-in candidate.

(d) No person shall make to any committee that contributes to any candidate and no such committee shall accept from each such person a contribution or contributions totaling more than five hundred dollars ($500) per calendar year. This subdivision shall not apply to candidate-controlled committees, political party committees, and independent expenditure committees.

(e) The provisions of this section shall not apply to a candidate's contribution of his or her personal funds to his or her own campaign committee, but shall apply to contributions from a spouse.

SEC. 6. Section 85302 of the Government Code is repealed.

~~85302. No person shall make and no political committee, broad based political committee, or political party shall solicit or accept, any contribution or loan from a person which would cause the total amount contributed or loaned by that person to the same political committee, broad based political committee, or political party to exceed two thousand five hundred dollars ($2,500) in any fiscal year to make contributions to candidates for elective office.~~

SEC. 7. Section 85302 is added to the Government Code, to read:

85302. No small contributor committee shall make to any candidate or the controlled committee of such a candidate, and no such candidate or the candidate's controlled committee shall accept from a small contributor committee, a contribution or contributions totaling more than two times the applicable contribution limit for persons prescribed in Section 85301 or 85402, whichever is applicable.

SEC. 8. Section 85303 of the Government Code is repealed.

~~85303. (a) No political committee shall make, and no candidate or campaign treasurer shall solicit or accept, any contribution or loan which would cause the total amount contributed or loaned by that committee to that candidate for elective office or any committee controlled by that candidate to exceed two thousand five hundred dollars ($2,500) in any fiscal year.~~

~~(b) No broad based political committee or political party shall make and no candidate or campaign treasurer shall solicit or accept, any contribution or loan which would cause the total amount contributed or loaned by that committee or political party to that candidate or any committee controlled by that candidate to exceed five thousand dollars ($5,000) in any fiscal year.~~

~~(c) Nothing in this Chapter shall limit a person's ability to provide financial or other support to one or more political committees or broad based political committees provided the support is used for purposes other than making contributions directly to candidates for elective office.~~

SEC. 9. Section 85303 is added to the Government Code, to read:

85303. No person shall give in the aggregate to political party committees of the same political party, and no such party committees combined shall accept from any person, a contribution or contributions totaling more than five thousand dollars ($5,000) per calendar year; except a candidate may distribute any surplus, residual, or unexpended campaign fund to a political party committee.

SEC. 10. Section 85304 of the Government Code is repealed.

~~85304. No candidate for elective office or committee controlled by that candidate or candidates for elective office shall transfer any contribution to any other candidate for elective office. Transfers of funds between candidates or their controlled committees are prohibited.~~

SEC. 11. Section 85304 is added to the Government Code, to read:

85304. No more than 25 percent of the recommended expenditure limits specified in this act at the time of adoption by the voters, subject to cost of living adjustments as specified in Section 83124, shall be accepted in cumulative contributions for any election from all political party committees by any candidate or the controlled committee of such a candidate. Any expenditures made by a political party committee in support of a candidate shall be considered contributions to the candidate.

SEC. 12. Section 85305 of the Government Code is repealed.

~~85305. (a) This Section shall only apply to candidates who seek elective office during a special election or a special runoff election.~~

~~(b) As used in this Section, the following terms have the following meanings:~~

~~(1) "Special election cycle" means the day on which the office becomes vacant until the day of the special election.~~

~~(2) "Special runoff election cycle" means the day after the special election until the day of the special runoff election.~~

~~(c) Notwithstanding Section 85301 or 85303 the following contribution limitations shall apply during special election cycles and special runoff election cycles.~~

~~(1) No person shall make, and no candidate for elective office, or campaign treasurer, shall solicit or accept any contribution or loan which would cause the total amount contributed or loaned by that person to that candidate, including contributions or loans to all committees controlled by the candidate, to exceed one thousand dollars ($1,000) during any special election cycle or special runoff election cycle.~~

~~(2) No political committee shall make, and no candidate or campaign treasurer shall solicit or accept, any contribution or loan which would cause the total amount contributed or loaned by that committee to that candidate for elective office or any committee controlled by that candidate to exceed two thousand five hundred dollars ($2,500) during any special election cycle or special runoff election cycle.~~

~~(3) No broad based political committee or political party shall make and no candidate or campaign treasurer shall solicit or accept, any contribution or loan which would cause the total amount contributed or loaned by that committee or political party to that candidate or any committee controlled by that candidate to exceed five thousand dollars ($5,000) during any special election cycle or special runoff election cycle.~~

SEC. 13. Section 85305 is added to the Government Code, to read:

85305. (a) In districts of fewer than 1,000,000 residents, no candidate or the candidate controlled committee shall accept contributions more than six months before any primary or special primary election or, in the event there is no primary or special primary election, any regular election or special election in which the candidate is attempting to be on the ballot or is a write-in candidate.

(b) In districts of 1,000,000 residents or more and for statewide elective office, no candidate or the candidate's controlled committee shall accept contributions more than 12 months before any primary or special primary election or, in the event there is no primary or special primary election, any regular election or special election in which the candidate is attempting to be on the ballot or is a write-in candidate.

(c) No candidate or the controlled committee of such candidate shall accept contributions more than 90 days after the date of withdrawal, defeat, or election to office. Contributions accepted immediately following such an election or withdrawal and up to 90 days after that date shall be used only to pay outstanding bills or debts owed by the candidate or controlled committee. This section shall not apply to retiring debts incurred with respect to any election held prior to the effective date of this act, provided such funds are collected pursuant to the contribution limits specified in Article 3 (commencing with Section 85300) of this act, applied separately for each prior election for which debts are being retired, and such funds raised shall not count against the contribution limitations applicable for any election following the effective date of this act.

(d) Notwithstanding subdivision (c), funds may be collected at any time to pay for attorney's fees for litigation or administrative action which arises directly out of a candidate's or elected officer's alleged violation of state or local campaign, disclosure, or election laws or for a fine or assessment imposed by any governmental agency for violations of this act or this title, or for a recount or contest of the validity of an election, or for any expense directly associated with an external audit or unresolved tax liability of the campaign by the candidate or the candidate's controlled committee; provided such funds are collected pursuant to the contribution limits of this act.

(e) Contributions pursuant to subdivisions (c) and (d) of this provision shall be considered contributions raised for the election in which the debts, fines, assessments, recounts, contests, audits, or tax liabilities were incurred and shall be subject to the contribution limits of that election.

SEC. 14. Section 85306 of the Government Code is repealed.

~~85306. Any person who possesses campaign funds on the effective date of this chapter may expend these funds for any lawful purpose other than to support or oppose a candidacy for elective office.~~

SEC. 15. Section 85306 is added to the Government Code, to read:

85306. No candidate and no committee controlled by a candidate or officeholder, other than a political party committee, shall make any contribution to any other candidate runni for office or his or her controlled committee. This section shall not prohibit a candidate fr making a contribution from his or her own personal funds to his or her own candidacy or to the candidacy of any other candidate for elective office.

SEC. 16. Section 85307 of the Government Code is repealed.

~~85307. The provisions of this article regarding loans shall apply to extensions of credit, but shall not apply to loans made to the candidate by a commercial lending institution in the~~

~~lender's regular course of business on terms available to members of the general public for which the candidate is personally liable.~~

SEC. 17. Section 85307 is added to the Government Code, to read:

85307. (a) A loan shall be considered a contribution from the maker and the guarantor of the loan and shall be subject to all contribution limitations.

(b) Extensions of credit for a period of more than 30 days, other than loans from financial institutions given in the normal course of business, are subject to all contribution limitations.

(c) No candidate shall personally make outstanding loans to his or her campaign or campaign committee that total at any one point in time more than twenty thousand dollars ($20,000) in the case of any candidate, except for candidates for governor, or fifty thousand dollars ($50,000) in the case of candidates for governor. Nothing in this chapter shall prohibit a candidate from making unlimited contributions to his or her own campaign.

SEC. 18. Section 85308 is added to the Government Code, to read:

85308. (a) Contributions by a husband and wife shall not be aggregated.

(b) Contributions by children under 18 shall be treated as contributions attributed equally to each parent or guardian.

SEC. 19. Section 85309 is added to the Government Code, to read:

85309. No more than 25 percent of the recommended voluntary expenditure limits specified in this act at the time of adoption by the voters, subject to cost-of-living adjustments as specified in Section 83124, for any election shall be accepted in contributions from other than individuals, small contributor committees, and political party committees in the aggregate by any candidate or the controlled committee of such a candidate. The limitation in this section shall apply whether or not the candidate agrees to the expenditure ceilings specified in Section 85400.

SEC. 20. Section 85310 is added to the Government Code, to read:

85310. No person shall contribute in the aggregate more than twenty-five thousand dollars ($25,000) to all state candidates and the state candidates' controlled committees and political party committees in any two-year period. Contributions from political parties shall be exempt from this provision.

SEC. 21. Section 85311 is added to the Government Code, to read:

85311. All payments made by a person established, financed, maintained, or controlled by any business entity, labor organization, association, political party, or any other person or group of such persons shall be considered to be made by a single person.

SEC. 22. Section 85312 is added to the Government Code, to read:

85312. The costs of internal communications to members, employees, or shareholders of an organization, other than a political party, for the purpose of supporting or opposing a candidate or candidates for elective office or a ballot measure or measures shall not be considered a contribution or independent expenditure under the provisions of this act, provided such payments are not for the costs of campaign materials or activities used in connection with broadcasting, newspaper, billboard, or similar type of general public communication.

SEC. 23. Section 85313 is added to the Government Code, to read:

85313. (a) Each elected officer may be permitted to establish one segregated officerholder expense fund for expenses related to assisting, serving, or communicating with constituents, or with carrying out the official duties of the elected officer, provided aggregate contributions to such a fund do not exceed ten thousand dollars ($10,000) within any calendar year and that the expenditures are not made in connection with any campaign for elective office or ballot measure.

(b) No person shall make, and no elected officer or officeholder account shall solicit or accept from any person, a contribution or contributions to the officerholder account totaling more than two hundred fifty dollars ($250) during any calendar year. Contributions to an officeholder account shall not be considered campaign contributions.

(c) No elected officeholder or officeholder account shall solicit or accept a contribution to the officeholder account from, through, or arranged by a registered state or local lobbyist or a state or local lobbyist employer if that lobbyist or lobbyist employer finances, engages, or is authorized to engage in lobbying the governmental agency of the officeholder.

(d) All expenditures from, and contributions to, an officeholder account are subject to the campaign disclosure and reporting requirements of this title.

(e) Any funds in an officeholder account remaining after leaving office shall be turned over to the General Fund.

SEC. 24. Article 4 (commencing with Section 85400) is added to Chapter 5 of Title 9 of the Government Code, to read:

Article 4. Voluntary Expenditure Ceilings

85400. (a) No candidate for legislative office, Board of Equalization, or statewide office who voluntarily accepts expenditure ceilings and any controlled committee of such a candidate shall make campaign expenditures above the following amount:

(1) For an Assembly candidate, one hundred thousand dollars ($100,000) in the primary or special primary election and two hundred thousand dollars ($200,000) in the general, special, or special runoff election.

(2) For a Senate candidate and candidate for Board of Equalization, two hundred thousand dollars ($200,000) in the primary or special primary election and four hundred thousand dollars ($400,000) in the general, special, or special runoff election.

(3) For statewide candidates, other than governor, one million dollars ($1,000,000) in the primary election and two million dollars ($2,000,000) in the general, special, or special runoff election.

(4) For governor, four million dollars ($4,000,000) in the primary election and eight million dollars ($8,000,000) in the general, special, or special runoff election.

(b) In the event that the state adopts an open primary system, the voluntary expenditure ceilings for all state candidates in the primary election shall be increased by 50 percent.

(c) Any local jurisdiction, municipality, or county may establish voluntary expenditure ceilings for candidates and controlled committees of such candidates for elective office not to exceed one dollar ($1) per resident for each election in the district in which the candidate is seeking elective office. Voluntary expenditure ceilings may be set at lower levels by the local governing body.

85401. (a) Each candidate for office shall file a statement of acceptance or rejection of the voluntary expenditure ceilings in Section 85400 before accepting any contributions. If he or she agrees to accept the expenditure ceilings, the candidate shall not be subject to the contribution limitations in Section 85301, but shall be subject to the contribution limitations in Section 85402.

(b) If a candidate declines to accept the voluntary expenditure ceilings in Section 85400, the candidate shall be subject to the contribution limitations in Section 85301.

(c) Any candidate who declined to accept the voluntary expenditure ceilings but who nevertheless did not exceed the recommended spending limits in the primary, special primary, or special election, may file a statement of acceptance of the spending limits for a general or special runoff election within 14 days following the primary, special primary, or special election and receive all the benefits accompanying such an agreement specified in this act.

85402. (a) Notwithstanding subdivision (a) of Section 85301, if a candidate accepts the expenditure ceilings set by local ordinance pursuant to subdivision (c) of Section 85400, no person, other than small contributor committees and political party committees, shall make to any such candidate or the candidate's controlled committee for elective office in districts of fewer than 100,000 residents and no such candidate or the candidate's controlled committee shall accept from any such person a contribution or contributions totaling more than two hundred fifty dollars ($250) for each election in which the candidate is attempting to be on the ballot or is a write-in candidate.

(b) Notwithstanding subdivision (b) of Section 85301, if a candidate accepts the expenditure ceilings in paragraph (1) or (2) of subdivision (a) of Section 85400 or set by local ordinance pursuant to subdivision (c) of Section 85400, no person, other than small contributor committees and political party committees, shall make to any such candidate or the candidate's controlled committee for elective office in districts of 100,000 residents or more and no such candidate or the candidate's controlled committee shall accept from any such person a contribution or contributions totaling more than five hundred dollars ($500) for each election in which the candidate is attempting to be on the ballot or is a write-in candidate.

(c) Notwithstanding subdivision (c) of Section 85301, if a candidate accepts the expenditure ceilings in paragraph (3) or (4) of subdivision (a) of Section 85400, no person, other than small contributor committees and political party committees, shall make to any such candidate or the candidate's controlled committee for statewide office and no such candidate or the candidate's controlled committee shall accept from any such person a contribution or contributions totaling more than one thousand dollars ($1,000) for each election in which the candidate is attempting to be on the ballot or is a write-in candidate.

85403. For purposes of the expenditure ceilings, qualified campaign expenditures made at any time up to the date of the primary, special primary, or special election shall be considered expenditures for that election, and qualified campaign expenditures made after the date of such election shall be considered expenditures for the general or runoff election. However, in the event that payments are made but the goods or services are not used during the period purchased, the payments shall be considered qualified campaign expenditures for the time period in which the goods or services are used. Payments for goods and services used in both periods shall be prorated.

85404. (a) If a candidate declines to accept voluntary expenditure ceilings and receives contributions, has cash on hand, or makes qualified expenditures equal to 75 percent or more of the recommended expenditure ceiling for that office, the voluntary expenditure ceiling shall be three times the limit specified in Section 85400 for any candidate running for the same nonstatewide office, and two times the limit specified in Section 85400 for any candidate running for the same statewide office. Any candidate running for that office who originally accepted voluntary expenditure ceilings shall be exempt from the limits that political party committees may contribute to a candidate in Section 85304, and such candidates shall be permitted to continue receiving contributions at the amounts set forth in Section 85402.

(b) If an independent expenditure committee or committees in the aggregate spend in support or opposition to a candidate for nonstatewide office more than 50 percent of the applicable voluntary expenditure ceiling, the voluntary expenditure ceiling shall be three times the limit specified in Section 85400 for any candidate running for the same elective office. Any candidate running for that office who originally accepted voluntary expenditure ceilings shall be exempt from the limits that political party committees may contribute to a candidate in Section 85304, and such candidates shall be permitted to continue receiving contributions at the amounts set forth in subdivision (a) or (b) of Section 85402.

(c) If an independent expenditure committee or committees in the aggregate spend in support or opposition to a candidate for statewide office more than 25 percent of the applicable voluntary expenditure ceiling, the voluntary expenditure ceiling shall be increased two times the limit specified in Section 85400 for any candidate running for the same statewide office. Any candidate running for that office who originally accepted voluntary expenditure ceilings shall be exempt from the limits that political party committees may contribute to a candidate in Section 85304, and such candidates shall be permitted to continue receiving contributions at the amounts set forth in subdivision (c) of Section 85402.

(d) The commission shall require candidates and independent committees to provide sufficient notice to the commission and to all candidates for the same office that they are approaching and exceeding the thresholds set forth in this section.

SEC. 25. Article 5 (commencing with Section 85500) is added to Chapter 5 of Title 9 of the Government Code, to read:

Article 5. Independent Expenditures

85500. (a) Any committee that makes independent expenditures of more than one thousand dollars ($1,000) in support of or in opposition to any candidate shall notify the filing officer and all candidates running for the same seat within 24 hours by facsimile transmission or overnight delivery each time this threshold is met. The commission shall determine the disclosure requirements for this subdivision and shall establish guidelines permitting persons to file reports indicating ongoing independent expenditures.

(b) Notwithstanding subdivision (d) of Section 85301, any committee that makes independent expenditures of one thousand dollars ($1,000) or more supporting or opposing a candidate shall not accept any contribution in excess of two hundred fifty dollars ($250) per election.

(c) Any contributor that makes a contribution of one hundred dollars ($100) or more per election to a candidate for elective office shall be considered to be acting in concert with that candidate and shall not make independent expenditures and contributions which in combination exceed the amounts set forth in Section 85301 in support of that candidate or in opposition to that candidate's opponent or opponents.

(d) An expenditure shall not be considered independent, and shall be treated as a contribution from the person making the expenditure to the candidate on whose behalf, or for whose benefit, the expenditure is made either:

(1) With the cooperation of, or in consultation with, any candidate or any authorized committee or agent of the candidate.

(2) In concert with, or at the request or suggestion of, any candidate or any authorized committee or agent of the candidate.

(3) Under any arrangement, coordination, or direction with respect to the candidate or the candidate's agent and the person making the expenditure.

(4) By a candidate or officeholder supporting another candidate or officeholder of the same political party running for a seat in the same legislative body of the candidate or officeholder.

For purposes of this section, the person making the expenditure shall include any officer, director, employee, or agent of that person.

SEC. 26. Article 6 (commencing with Section 85600) is added to Chapter 5 of Title 9 of the Government Code, to read:

Article 6. Ballot Pamphlet and Sample Ballot

85600. The Secretary of State shall provide to all candidates for statewide office, who voluntarily choose to limit their campaign expenditures in accordance with the provisions of this act, a campaign statement in the state ballot pamphlet of 100 words in primary and special elections, and 200 words in general elections, free of charge. Candidates for statewide office not choosing to limit their campaign expenditures in accordance to provisions of this act may also publish a campaign statement of similar length and format in the state ballot pamphlet, but shall be charged the pro rata cost of printing, handling, translating, and mailing the campaign statement. Such candidate statements shall not include any references to a candidate's opponent or opponents and may include a photograph of the candidate.

85601. (a) The clerk of each county shall provide to candidates for offices of the State Assembly, State Senate, and Board of Equalization, who voluntarily choose to limit their campaign expenditures in accordance with this act, a campaign statement with the county sample ballot materials of 100 words in primary and special elections, and 200 words in general elections, free of charge, the add-on cost of which is to be reimbursed from the state General Fund. Candidates for the offices of State Assembly, State Senate, and Board of Equalization not choosing to limit their campaign expenditures in accordance to this act may also publish a campaign statement of similar length and format with the county sample ballot materials, but shall be charged the pro rata cost of printing, handling, translating, and mailing the campaign statement. Such candidate statements shall not include any references to a candidate's opponent or opponents and may include a photograph of the candidate.

(b) The statements of candidates for State Assembly, State Senate, and Board of Equalization may be included in the state ballot pamphlet instead of with the county sample ballot materials if the Secretary of State determines that inclusion in the state ballot pamphlet is less expensive and more convenient for the voters.

85602. The Secretary of State and local elections officers shall prominently designate on the ballot and in the ballot phamplet and sample ballot those candidates who have voluntarily agreed to expenditure ceilings. The commission shall prescribe by regulation the method or methods for such designation.

SEC. 27. Article 7 (commencing with Section 85700) is added to Chapter 5 of Title 9 of the Government Code, to read:

Article 7. Additional Contribution Requirements

85700. No contribution of one hundred dollars ($100) or more shall be deposited into a campaign checking account unless the name, address, occupation, and employer of the contributor is on file in the records of the recipient of the contribution.

85701. Any person who accepts a contribution which is not from the person listed on the check or subsequent campaign disclosure statement shall be liable to pay the state the entire amount of the laundered contribution. The statute of limitations shall not apply to this provision, and repayments to the state shall be made as long as the person or any committee controlled by such a person has any funds sufficient to pay the state.

85702. Contributions made directly or indirectly to or on behalf of a particular candidate through an intermediary or conduit shall be treated as contributions from the contributor and the intermediary or conduit to the candidate for the purposes of this limitation unless the intermediary or conduit is one of the following:

(a) The candidate or representative of the candidate receiving contributions on behalf of the candidate. However, the representative shall not include the following persons:

(1) A committee other than the candidate's campaign committee.

(2) An officer, employee, or agent of a committee other than the candidate's campaign committee.

(3) A person registered as a lobbyist with the governmental agency for which the candidate is running or is an officeholder.

(4) An officer, employee, or agent of a corporation or labor organization acting on behalf of the corporation or organization.

(b) A volunteer, who otherwise does not fall under paragraphs (1) through (4) of subdivision (a) of this provision, hosting a fundraising event outside the volunteer's place of business.

85703. No person shall make and no person, other than a candidate or the candidate's controlled committee, shall accept any contribution on the condition or with the agreement that it will be contributed to any particular candidate. The expenditure of funds received by a person shall be made at the sole discretion of the recipient person.

85704. No elected officeholder, candidate, or the candidate's controlled committee may solicit or accept a campaign contribution or contribution to an officeholder account from, through, or arranged by a registered state or local lobbyist if that lobbyist finances, engages, or is authorized to engage in lobbying the governmental agency for which the candidate is seeking election or the governmental agency of the officeholder.

85705. No person appointed to a public board or commission or as Trustee of the California State University or Regent of the University of California during tenure in office shall donate to, or solicit or accept any campaign contribution for, any committee controlled by the person who made the appointment to that office or any other entity with the intent that the recipient of the donation be any committee controlled by such person who made the appointment.

85706. (a) Nothing in this act shall nullify contribution limitations or other campaign disclosures or prohibitions of any local jurisdiction that are as or more stringent than set forth in this act.

(b) The governing body of a local jurisdiction may impose lower contribution limitat. or other campaign disclosures or prohibitions that are as or more stringent than set forth ... this act. A local jurisdiction may impose higher contribution or expenditure limitations only by a vote of the people.

(c) Any charter municipality which chooses to establish a voluntary spending limit program involving matching funds, consistent with sudivision (c) of Section 85400, may set a uniform contribution ceiling from any person to any candidate or the candidate's controlled committee of a contribution or contributions totaling no more than five hundred dollars ($500) for each election in which the candidate is attempting to be on the ballot or is a write-in candidate, provided that the program offers a matching fund ratio of at least one dollar ($1) to each three matchable private contributions.

ENFORCEMENT

SEC. 28. Section 83116 of the Government Code is amended to read:

83116. When the Commission determines there is probable cause for believing this title has been violated, it may hold a hearing to determine if such a violation has occurred. Notice shall be given and the hearing conducted in accordance with the Administrative Procedure Act (Government Code, Title 2, Division 3, Part 1, Chapter 5, Sections 11500 et seq.). The Commission shall have all the powers granted by that chapter.

When the Commission determines on the basis of the hearing that a violation has occurred, it shall issue an order which may require the violator to:

(a) Cease and desist violation of this title;

(b) File any reports, statements or other documents or information required by this title;

(c) Pay a monetary penalty of up to ~~two thousand dollars ($2,000)~~ *five thousand dollars ($5,000) per violation* to the General Fund of the state.

When the Commission determines that no violation has occurred, it shall publish a declaration so stating.

SEC. 29. Section 83116.5 of the Government Code is amended to read:

83116.5. Any person who violates any provision of this title, who purposely or negligently causes any other person to violate any provision of this title, or who aids and abets any other person in the violation of any provision of this title, shall be liable under the provisions of this chapter *and Chapter 11 (commencing with Section 91000).* ~~Provided, however, that this section shall apply only to persons who have filing or reporting obligations under this title, or who are compensated for services involving the planning, organizing, or directing any activity regulated or required by this title, and that a violation of this section shall not constitute an additional violation under Chapter 11.~~

SEC. 30. Section 91000 of the Government Code is amended to read:

91000. (a) Any person who knowingly or willfully violates any provision of this title is guilty of a misdemeanor.

(b) In addition to other penalties provided by law, a fine of up to the greater of ten thousand dollars ($10,000) or three times the amount the person failed to report properly or unlawfully contributed, expended, gave or received may be imposed upon conviction for each violation.

(c) Prosecution for violation of this title must be commenced within four years after the date on which the violation occurred.

(d) The commission has concurrent jurisdiction in enforcing the criminal misdemeanor provisions of this title.

SEC. 31. Section 91004 of the Government Code is amended to read:

91004. Any person who intentionally or negligently violates any of the reporting requirements of this act, *or who aids and abets any person who violates any of the reporting requirements of this act,* shall be liable in a civil action brought by the civil prosecutor or by a person residing within the jurisdiction for an amount not more than the amount or value not properly reported.

SEC. 32. Section 91005.5 of the Government Code is amended to read:

91005.5. Any person who violates any provision of this title, except Sections 84305, 84307, and 89001, for which no specific civil penalty is provided, shall be liable in a civil action brought by the commission or the district attorney pursuant to subdivision (b) of Section 91001, or the elected city attorney pursuant to Section 91001.5, for an amount up to ~~two thousand dollars ($2,000)~~ *five thousand dollars ($5,000) per violation .*

No civil action alleging a violation of this title may be filed against a person pursuant to this section if the criminal prosecutor is maintaining a criminal action against that person pursuant to Section 91000.

The provisions of this section shall be applicable only as to violations occurring after the effective date of this section.

SEC. 33. Section 91006 of the Government Code is amended to read:

91006. *Any person who violates any provision of this title, who purposely or negligently causes any other person to violate any provision of this title, or who aids and abets any other person in the violation of any provision of this title, shall be liable under the provisions of this chapter and Chapter 3 (commencing with Section 83100) of this title.* If two or more persons are responsible for any violation, they shall be jointly and severally liable.

SEC. 34. Section 91015 of the Government Code is repealed.

~~91015. The provisions of this chapter shall not apply to violations of Section 83116.5.~~

DISCLOSURE

SEC. 35. Section 84201 is added to the Government Code, to read:

84201. The threshold for contributions and expenditures reported in the campaign statements designated in Sections 84203.5, 84211, and 84219, except for subdivision (i) of Section 84219, and for cash contributions and anonymous contributions designated Sections 84300 and 84304, shall be set at no more than one hundred dollars ($1 notwithstanding any other provision of law or any legislative amendment to such sections.

SEC. 36. Section 84305.5 of the Government Code is amended to read:

84305.5. (a) No slate mailer organization or committee primarily formed to support or oppose one or more ballot measures shall send a slate mailer unless:

(1) The name, street address, and city of the slate mailer organization or committee

primarily formed to support or oppose one or more ballot measures are shown on the outside of each piece of slate mail and on ~~at least one of the inserts~~ *every insert* included with each piece of slate mail in no less than 8-point roman type which shall be in a color or print which contrasts with the background so as to be easily legible. A post office box may be stated in lieu of a street address if the street address of the slate mailer organization or the committee narily formed to support or oppose one or more ballot measure is a matter of public record n the Secretary of State's Political Reform Division.

(2) At the top ~~or bottom of the front~~ *of each* side or surface ~~of at least one insert~~ *of a slate mailer* or at the top ~~or bottom~~ of ~~one~~ *each* side or surface of a postcard or other self-mailer, there is a notice in at least 8-point roman boldface type, which shall be in a color or print which contrasts with the background so as to be easily legible, and in a printed or drawn box and set apart from any other printed matter. The notice shall consist of the following statement:

NOTICE TO VOTERS

THIS DOCUMENT WAS PREPARED BY (name of slate mailer organization or committee primarily formed to support or oppose one or more ballot measures), NOT AN OFFICIAL POLITICAL PARTY ORGANIZATION. ~~Appearance in this mailer does not necessarily imply endorsement of others appearing in this mailer, not does it imply endorsement of, or opposition to, any issues set forth in this mailer. Appearance is paid for and authorized by each candidate~~ *All candidates* and ballot ~~measures which is~~ *measures* designated by ~~an~~ * *$$$ have paid for their listing in this mailer. A listing in this mailer does not necessarily imply endorsement of other candidates or measures listed in this mailer.*

(3) ~~The name, street address, and city of the slate mailer organization or committee primarily formed to support or oppose one or more ballot measures as required by paragraph (1) and the notice required by paragraph (2) may appear on the same side or surface of an insert.~~ *Any reference to a ballot measure that has paid to be included on the slate mailer shall also comply with the provisions of Section 84503 et seq.*

(4) Each candidate and each ballot measure that has paid to appear in the slate mailer is designated by ~~an~~ * *$$$*. Any candidate or ballot measure that has not paid to appear in the slate mailer is not designated by ~~an~~ * *$$$*.

The * *$$$* required by this subdivision shall be of the same type size, type style, color or contrast, and legibility as is used for the name of the candidate or the ballot measure name or number and position advocated to which the * *$$$* designation applies except that in no case shall the * *$$$* be required to be larger than 10-point boldface type. The designation shall immediately follow the name of the candidate, or the name or number and position advocated on the ballot measure where the designation appears in the slate of candidates and measures. If there is no slate listing, the designation shall appear at least once in at least 8-point boldface type, immediately following the name of the candidate, or the name or number and position advocated on the ballot measure.

(5) The name of any candidate appearing in the slate mailer who is a member of a political ty differing from the political party which the mailer appears by representation or indicia represent is accompanied, immediately below the name, by the party designation of the candidate, in no less than 9-point roman type which shall be in a color or print that contrasts with the background so as to be easily legible. The designation shall not be required in the case of candidates for nonpartisan office.

(b) For purposes of the designations required by paragraph (4) of subdivision (a), the payment of any sum made reportable by subdivision (c) of Section 84219 by or at the behest of a candidate or committee, whose name or position appears in the mailer, to the slate mailer organization or committee primarily formed to support or oppose one or more ballot measures, shall constitute a payment to appear, requiring the * *$$$* designation. The payment shall also be deemed to constitute authorization to appear in the mailer.

(c) A slate mailer that complies with this section shall be deemed to satisfy the requirements of Sections 20003 and 20004 of the Elections Code.

SEC. 37. Article 5 (commencing with Section 84501) is added to Chapter 4 of Title 9 of the Government Code, to read:

Article 5. Disclosure in Advertisements

84501. (a) "Advertisement" means any general or public advertisement which is authorized and paid for by a person or committee for the purpose of supporting or opposing a candidate for elective office or a ballot measure or ballot measures.

(b) "Advertisement" does not include a communication from an organization other than a political party to its members, a campaign button smaller than 10 inches in diameter, a bumper sticker smaller than 60 square inches, or other advertisement as determined by regulations of the commission.

84502. "Cumulative contributions" means the cumulative contributions to a committee beginning the first day the statement of organization is filed under Section 84101 and ending within seven days of the time the advertisement is sent to the printer or broadcast station.

84503. (a) Any advertisement for or against any ballot measure shall include a disclosure statement identifying any person whose cumulative contributions are fifty thousand dollars ($50,000) or more.

(b) If there are more than two donors of fifty thousand dollars ($50,000) or more, the committee is only required to disclose the highest and second highest in that order. In the event that more than two donors meet this disclosure threshold at identical contribution levels, the highest and second highest shall be selected according to chronological sequence.

84504. (a) Any committee that supports or opposes one or more ballot measures shall name and identify itself using a name or phrase that clearly identifies the economic or other special interest of its major donors of fifty thousand dollars ($50,000) or more in any reference to the committee required by law, including, but not limited, to its statement of rganization filed pursuant to Section 84101.

(b) If the major donors of fifty thousand dollars ($50,000) or more share a common .ployer, the identity of the employer shall also be disclosed.

(c) Any committee which supports or opposes a ballot measure, shall print or broadcast its name as provided in this section as part of any advertisement or other paid public statement.

(d) If candidates or their controlled committees, as a group or individually, meet the contribution thresholds for a person, they shall be identified by the controlling candidate's name.

84505. In addition to the requirements of Sections 84503, 84504, and 84506, the committee placing the advertisement or persons acting in concert with that committee shall be prohibited from creating or using a noncandidate controlled committee or a nonsponsored committee to avoid, or that results in the avoidance of, the disclosure of any individual, industry, business entity, controlled committee, or sponsored committee as a major funding source.

84506. If the expenditure for a broadcast or mass mailing advertisement that expressly advocates the election or defeat of any candidate or any ballot measure is an independent expenditure, the committee, consistent with any disclosures required by Sections 84503 and 84504, shall include on the advertisement the names of the two persons making the largest contributions to the committee making the independent expenditure. If an acronym is used to specify any committee names required by this section, the names of any sponsoring organization of the committee shall be printed on print advertisements or spoken in broadcast advertisements. For the purposes of determining the two contributors to be disclosed, the contributions of each person to the committee making the independent expenditure during the one-year period before the election shall be aggregated.

84507. Any disclosure statement required by this article shall be printed clearly and legibly in no less than 10-point type and in a conspicuous manner as defined by the commission or, if the communication is broadcast, the information shall be spoken so as to be clearly audible and understood by the intended public and otherwise appropriately conveyed for the hearing impaired.

84508. If disclosure of two major donors is required by Sections 84503 and 84506, the committee shall be required to disclose, in addition to the committee name, only its highest major contributor in any advertisement which is:

(a) An electronic broadcast of 15 seconds or less, or

(b) A newspaper, magazine, or other public print media advertisement which is 20 square inches or less.

84509. When a committee files an amended campaign statement pursuant to Section 81004.5, the committee shall change its advertisements to reflect the changed disclosure information.

84510. (a) In addition to the remedies provided for in Chapter 11 (commencing with Section 91000) of this title, any person who violates this article is liable in a civil or administrative action brought by the commission or any person for a fine up to three times the cost of the advertisement, including placement costs.

(b) The remedies provided in subdivision (a) shall also apply to any person who purposely causes any other person to violate any provision of this article or who aids and abets any other person in a violation.

(c) If a judgment is entered against the defendant or defendants in an action brought under this section, the plaintiff shall receive 50 percent of the amount recovered. The remaining 50 percent shall be deposited in the General Fund of the state. In an action brought by a local civil prosecutor, 50 percent shall be deposited in the account of the agency bringing the action and 50 percent shall be paid to the General Fund of the state.

MISCELLANEOUS PROVISIONS

SEC. 38. Section 82039 of the Government Code is amended to read:

82039. "Lobbyist" means any individual who ~~is employed or contracts for~~ *receives two thousand dollars ($2,000) or more in* economic consideration *in a calendar month*, other than reimbursement for reasonable travel expenses, *or whose principal duties as an employee are,* to communicate directly or through his or her agents with any elective state official, agency official, or legislative official for the purpose of influencing legislative or administrative action ; ~~if a substantial or regular portion of the activities for which he or she receives consideration is for the purpose of influencing legislative or administrative action~~. No individual is a lobbyist by reason of activities described in Section 86300.

SEC. 39. Section 83124 is added to the Government Code, to read:

83124. The commission shall adjust the contribution limitations and expenditure limitations provisions in Sections 85100 et seq. in January of every even-numbered year to reflect any increase or decrease in the California Consumer Price Index. Such adjustments shall be rounded to the nearest 50 for the limitations on contributions and the nearest 1,000 for the limitations on expenditures.

SEC. 40. Section 85802 is added to the Government Code, to read:

85802. There is hereby appropriated from the General Fund of the state to the Fair Political Practices Commission the sum of five hundred thousand dollars ($500,000) annually above and beyond the appropriations established for the commission in the fiscal year immediately prior to the effective date of this act, adjusted for cost-of-living changes, for expenditures to support the operations of the commission pursuant to this act. If any provision of this act is successfully challenged, any attorney's fees and costs shall be paid from the General Fund and the commission's budget shall not be reduced accordingly.

SEC. 41. Section 20300 of the Elections Code is repealed.

~~20300. Upon leaving any elective office, or at the end of the postelection reporting period following the defeat of a candidate for elective office, whichever occurs last, surplus campaign funds raised prior to January 1, 1989, under the control of the former candidate or officeholder or his or her controlled committee shall be used or held only for the following purposes:~~

~~(a) (1) The repayment of personal or committee loans or other obligations if there is a reasonable relationship to a political, legislative, or governmental activity.~~

~~(2) For purposes of this subdivision, the payment for, or the reimbursement to the state of, the costs of installing and monitoring an electronic security system in the home or office, or both, of a candidate or elected officer who has received threats to his or her physical safety shall be deemed to have a reasonable relationship to a political, legislative, or governmental activity, provided that the threats arise from his or her activities, duties, or status as a candidate or elected officer and that the threats have been reported to and verified by an appropriate law enforcement agency. Verification shall be determined solely by the law enforcement agency to which the threat was reported. The candidate or elected officer shall report any expenditure of campaign funds made pursuant to this section to the commission. The report to the commission shall include the date that the candidate or elected officer informed the law enforcement agency of the threat, the name and phone number of the law~~

~~enforcement agency, and a brief description of the threat. No more than five thousand dollars ($5,000) in surplus campaign funds may be used, cumulatively, by a candidate or elected officer pursuant to this subdivision. Payments made pursuant to this subdivision shall be made during the two years immediately following the date upon which the campaign funds became surplus campaign funds. The candidate or elected officer shall reimburse the surplus campaign fund account for the fair market value of the security system no later than two years immediately following the date upon which the campaign funds become surplus campaign funds, upon sale of the property on which the system is installed, or prior to the closing of the surplus campaign fund account, whichever comes first. The electronic security system shall be the property of the campaign committee of the candidate or elected officer.~~

~~(b) The payment of the outstanding campaign expenses.~~

~~(c) Contributions to any candidate, committee, or political party, except where otherwise prohibited by law.~~

~~(d) The pro rata repayment of contributors.~~

~~(e) Donations to any religious, scientific, educational, social welfare, civic, or fraternal organization no part of the net earnings of which inures to the benefit of any private shareholder or individual or to any charitable or nonprofit organization which is exempt from taxation under subsection (c) of Section 501 of the Internal Revenue Code or Section 17214 or Sections 23701a to 23701j, inclusive, or Section 23701l, 23701n, 23701p, or 23701s of the Revenue and Taxation Code.~~

~~(f) Except where otherwise prohibited by law, held in a segregated fund for future political campaigns, not to be expended except for political activity reasonably related to preparing for future candidacy for elective office.~~

SEC. 42. Section 89519 of the Government Code is repealed.

~~89519. Upon leaving any elected office, or at the end of the postelection reporting period following the defeat of a candidate for elective office, whichever occurs last, campaign funds raised after January 1, 1989, under the control of the former candidate or elected officer shall be considered surplus campaign funds and shall be disclosed pursuant to Chapter 4 (commencing with Section 84100) and shall be used only for the following purposes:~~

~~(a) (1) The payment of outstanding campaign debts or elected officer's expenses.~~

~~(2) For purposes of this subdivision, the payment for, or the reimbursement to the state of, the costs of installing and monitoring an electronic security system in the home or office, or both, of a candidate or elected officer who has received threats to his or her physical safety shall be deemed an outstanding campaign debt or elected officer's expense, provided that the threats arise from his or her activities, duties, or status as a candidate or elected officer and that the threats have been reported to and verified by an appropriate law enforcement agency. Verification shall be determined solely by the law enforcement agency to which the threat was reported. The candidate or elected officer shall report any expenditure of campaign funds made pursuant to this section to the commission. The report to the commission shall include the date that the candidate or elected officer informed the law enforcement agency of the threat, the name and phone number of the law enforcement agency, and a brief description of the threat. No more than five thousand dollars ($5,000) in surplus campaign funds may be used, cumulatively, by a candidate or elected officer pursuant to this subdivision. Payments made pursuant to this subdivision shall be made during the two years immediately following the date upon which the campaign funds became surplus campaign funds. The candidate or elected officer shall reimburse the surplus campaign fund account for the fair market value of the security system no later than two years immediately following the date upon which the campaign funds become surplus campaign funds, upon sale of the property on which the system is installed, or prior to the closing of the surplus campaign fund account, whichever comes first. The electronic security system shall be the property of the campaign committee of the candidate or elected officer.~~

~~(b) The pro rata repayment of contributions.~~

~~(c) Donations to any bona fide charitable, educational, civic, religious, or similar tax-exempt, nonprofit organization, where no substantial part of the proceeds will have a material financial effect on the former candidate or elected officer, any member of his or her immediate family, or his or her campaign treasurer.~~

~~(d) Contributions to a political party or committee so long as the funds are not used to make contributions in support of or opposition to a candidate for elective office.~~

~~(e) Contributions to support or oppose any candidate for federal office, any candidate for elective office in a state other than California, or any ballot measure.~~

~~(f) The payment for professional services reasonably required by the committee to assi in the performance of its administrative functions, including payment for attorney's fees litigation which arises directly out of a candidate's or elected officer's activities, duties, s status as a candidate or elected officer, including, but not limited to, an action to enjoin defamation, defense of an action brought of a violation of state or local campaign, disclosure, or election laws, and an action arising from an election contest or recount.~~

SEC. 43. Section 89519 is added to the Government Code, to read:

89519. Any campaign funds in excess of expenses incurred for the campaign or for expenses specified in subdivision (d) of Section 85305, received by or on behalf of an individual who seeks nomination for election, or election to office, shall be deemed to be surplus campaign funds and shall be distributed within 90 days after withdrawal, defeat, or election to office in the following manner:

(a) No more than ten thousand dollars ($10,000) may be deposited in the candidate's officeholder account; except such surplus from a campaign fund for the general election shall not be deposited into the officeholder account within 60 days immediately following the election.

(b) Any remaining surplus funds shall be distributed to any political party, returned to contributors on a pro rata basis, or turned over to the General Fund.

CONSTRUCTION

SEC. 44. This act shall be liberally construed to accomplish its purposes.

LEGISLATIVE AMENDMENTS

SEC. 45. The provisions of Section 81012 of the Government Code which allow legislative amendments to the Political Reform Act of 1974 shall apply to all the provisions of this act except for Sections 84201, 85301, 85303, 85313, 85400, and 85402.

APPLICABILITY OF OTHER LAWS

SEC. 46. Nothing in this law shall exempt any person from applicable provisions of any other laws of this state.

SEVERABILITY

SEC. 47. (a) If any provision of this law, or the application of any such provision to any person or circumstances, shall be held invalid, the remainder of this law to the extent it can be given effect, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby, and to this extent the provisions of this law are severable.

(b) If the expenditure limitations of Section 85400 of this law shall be held invalid, the contribution limitations specified in Sections 85301 through 85313 shall apply.

CONFLICTING BALLOT MEASURES

SEC. 48. If this act is approved by voters but superseded by any other conflicting ballot measure approved by more voters at the same election, and the conflicting ballot measure is later held invalid, it is the intent of the voters that this act shall be self-executing and given full force of the law.

EFFECTIVE DATE

SEC. 49. This law shall become effective January 1, 1997.

AMENDMENT TO POLITICAL REFORM ACT

SEC. 50. This chapter shall amend the Political Reform Act of 1974 as amended and all of its provisions which do not conflict with this chapter shall apply to the provisions of this chapter.

Proposition 209: Text of Proposed Law

This initiative measure is submitted to the people in accordance with the provisions of Article II, Section 8 of the Constitution.

This initiative measure expressly amends the Constitution by adding a section thereto; therefore, new provisions proposed to be added are printed in *italic type* to indicate that they are new.

PROPOSED AMENDMENT TO ARTICLE I

Section 31 is added to Article I of the California Constitution as follows:

SEC. 31. (a) The state shall not discriminate against, or grant preferential treatment to, any individual or group on the basis of race, sex, color, ethnicity, or national origin in the operation of public employment, public education, or public contracting.

(b) This section shall apply only to action taken after the section's effective date.

(c) Nothing in this section shall be interpreted as prohibiting bona fide qualifications based on sex which are reasonably necessary to the normal operation of public employment, public education, or public contracting.

(d) Nothing in this section shall be interpreted as invalidating any court order or consent decree which is in force as of the effective date of this section.

(e) Nothing in this section shall be interpreted as prohibiting action which must be taken to establish or maintain eligibility for any federal program, where ineligibility would result in a loss of federal funds to the state.

(f) For the purposes of this section, "state" shall include, but not necessarily be limited to, the state itself, any city, county, city and county, public university system, including the University of California, community college district, school district, special district, or any other political subdivision or governmental instrumentality of or within the state.

(g) The remedies available for violations of this section shall be the same, regardless of the injured party's race, sex, color, ethnicity, or national origin, as are otherwise available for violations of then-existing California antidiscrimination law.

(h) This section shall be self-executing. If any part or parts of this section are found to be in conflict with federal law or the United States Constitution, the section shall be implemented to the maximum extent that federal law and the United States Constitution permit. Any provision held invalid shall be severable from the remaining portions of this section.

Proposition 210: Text of Proposed Law

This initiative measure is submitted to the people in accordance with the provisions of Article II, Section 8 of the Constitution.

This initiative measure adds a section to the Labor Code; therefore, new provisions proposed to be added are printed in *italic type* to indicate that they are new.

PROPOSED LAW

LIVING WAGE ACT OF 1996

Section 1. The People of California find and declare that:

Because of inflation, Californians who earn the minimum wage can buy less today than at any time in the past 40 years;

At $4.25 per hour, the current minimum wage punishes hard work. It is so low th minimum wage workers often make less than people on welfare;

Increasing the minimum wage will reward work by making it pay more than welfare;

Because good paying jobs are becoming so hard to find, it is more important than ever that California has a living minimum wage;

The purpose of the Living Wage Act of 1996 is to restore the purchasing power of the

minimum wage and to help minimum wage workers lift themselves out of poverty;

To achieve that purpose, the Living Wage Act of 1996 will increase the minimum wage to $5.00 per hour in 1997 and $5.75 per hour in 1998.

Section 2. Section 1182.11 is added to the Labor Code to read:

1182.11. Notwithstanding any other provision of this part, on and after March 1, 1997, minimum wage for all industries shall not be less than five dollars ($5.00) per hour; on after March 1, 1998, the minimum wage for all industries shall not be less than five dollars and seventy-five cents ($5.75) per hour. The Industrial Welfare Commission shall, at a public meeting, adopt minimum wage orders consistent with this section without convening wage boards, which wage orders shall be final and conclusive for all purposes.

Section 3. Name of Act.

This statute shall be known as the Living Wage Act of 1996.

Section 4. Severability.

It is the intent of the People that the provisions of this act are severable and that if any provision of this act, or the application thereof to any person or circumstance, is held invalid, such invalidity shall not affect any other provision or application of this act which can be given effect without the invalid provision or application.

Proposition 211: Text of Proposed Law

This initiative measure is submitted to the people in accordance with the provisions of Article II, Section 8 of the Constitution.

This initiative measure adds sections to various codes; therefore, new provisions proposed to be added are printed in *italic type* to indicate that they are new.

PROPOSED LAW

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. TITLE

This initiative statute shall be known and may be cited as the "Retirement Savings and Consumer Protection Act."

SECTION 2. FINDINGS AND DECLARATIONS

The people of the State of California find and declare as follows:

(a) Millions of Californians work hard, pay their taxes, and save their money in order to provide for their economic security upon retirement. In doing so, they help support their state and local governments as taxpayers and insure that they do not become responsibilities of the state once they leave the workforce.

(b) Many Californians are members of or have contributed to private and public pension and retirement funds that invest in securities of corporations that are publicly traded or sold and other for-profit business entities. Many others invest their retirement savings themselves in such securities.

(c) Financial disasters like the collapse of many savings and loan institutions or the bankruptcy of Orange County result in devastating harm to the pensions and retirement savings of working people.

(d) Full and complete disclosure of material information affecting the value of securities is necessary to protect the millions of Californians who invest in them for their retirement. Existing laws inadequately protect pension and retirement investments in these securities from losses resulting from deceptive activities, including the misrepresentation or concealment of material information affecting the true value of these securities.

(e) An individual's retirement savings can also be threatened by an unexpected accident or ıry. Unless victims of such accidents or injuries are able to obtain full compensation for r losses, they are often forced to use up their retirement savings to pay for medical bills or ıving expenses after their injury.

(f) Consumers, pension investors, and victims of injuries need access to the civil justice system to insure that they are fully compensated for their losses and damages. Ordinary working people are often denied such access because they cannot afford to hire an attorney to represent them. Proposals are being put forward daily that would limit people's right to contract with the attorney of their choice and make it more difficult for all but the very wealthy to obtain legal representation. These proposals include, but are not limited to, efforts to make it harder for people to find representation to protect their retirement savings and investments.

(g) In order to protect the retirement savings of all Californians, it is necessary to require full disclosure of material information that affects the value of securities or individual savings and to insure that the right to contract with an attorney to obtain compensation for injury or loss shall not be impaired, or subject to interference by the government.

SECTION 3. PROHIBITED CONDUCT

Section 25400.1 is added to the Corporations Code, to read:

25400.1. It shall be unlawful, in connection with the purchase or sale of securities, for any person, for-profit corporation, or other for-profit business entity, directly or indirectly, to willfully, knowingly, or recklessly do any of the following that results in loss to any pension fund, retirement fund, or retirement savings:

(a) Make or cause to be made untrue statements of material facts.

(b) Omit to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading.

(c) Participate or assist in any deceptive practice, statement, course of conduct, or scheme.

This section shall not apply to any government entity or to any government official acting in his or her official capacity.

SECTION 4. CIVIL LIABILITY

Section 25500.1 is added to the Corporations Code, to read:

25500.1. (a) In addition to any other provision of law, any person, for-profit corporation, or other for-profit business entity that willfully, knowingly, or recklessly engages in conduct prohibited by Section 25400.1 shall be liable for the losses caused by that violation, as determined in an action brought in a court of competent jurisdiction by or on behalf of any person or entity, including any government entity, whose pension funds or retirement funds or savings have suffered a loss as a result of that violation.

(b) To remedy harm to the public and to deter willful, outrageous, or despicable conduct in violation of Section 25400.1 that causes loss to pension funds, retirement funds, or retirement savings, any person who engages in such conduct shall be liable for additional l damages in such amount as the finder of fact shall determine is necessary to punish the wrongdoer and deter similar conduct by others, which civil penalty shall be paid, less fees and expenses, to the General Fund of the Treasury of the State of California.

(c) Any action under this section or under Section 1709 or 1710 of the Civil Code, in connection with the purchase or sale of securities may be brought as a class action; the fraud on the market doctrine shall apply; and it shall be presumed that the market value of a security reflected the impact of any prohibited conduct, and reliance upon any material misrepresentation or omission shall be presumed, subject to rebuttal by defendant establishing that the security would have been purchased or sold even if plaintiff had known of the misconduct. Any action under this section may also be brought derivatively, without regard to any limitations or requirements currently imposed on derivative actions.

(d) For purposes of this section and Section 25400.1, "retirement savings" means and includes:

(1) any tax advantaged retirement account or plan, whether group, individual, or joint, or

(2) any other form of retirement savings, however denominated and in whatever form, of a person over 40 years of age, if it had been in existence for over one year or had a value of one thousand dollars ($1,000), or more before suffering any loss sought to be recovered under this title.

(e) Except as otherwise provided by law in effect on January 1, 1995:

(1) In any individual, class, or derivative action brought pursuant to this or any other section of the Corporations Code, including Section 800, or under Section 1709 or 1710 of the Civil Code, each party shall bear his, her, or its own fees and costs, provided, however, that:

(A) the power of the parties to agree to, or a court to award, fees and costs for plaintiffs' counsel in any class or derivative action shall not be restricted or impaired; and

(B) a party shall be entitled to recover his, her, or its reasonable attorneys' fees and costs incurred in the defense or prosecution of the action in the event the court finds that the opposing party's claims or defenses were frivolous.

(2) For purposes of this section, a frivolous claim or defense is one that is either (A) totally and completely without merit, or (B) filed for the sole purpose of harassing an opposing party.

(3) The right of any person, corporation, or other entity to contract with and pay counsel to pursue or defend any action, whether brought under this section or otherwise, shall not be restricted or the validity of such contracts be impaired.

Nothing in this section shall impair the authority of the courts to regulate the practice of law or to prohibit illegal or unconscionable fees.

SECTION 5. ATTORNEY'S FEES

Section 6146.6 is added to the Business and Professions Code, to read:

6146.6. Except as otherwise provided by law in effect on January 1, 1995, the right of any person, corporation, or other entity to contract with and pay counsel to pursue or defend any action shall not be restricted or the validity of such contracts be impaired. Nothing in this section shall impair the authority of the courts to regulate the practice of law or to prohibit illegal or unconscionable fees.

SECTION 6. INDEMNIFICATION

Section 25505.1 is added to the Corporations Code, to read:

25505.1. Notwithstanding any other provision of law, any principal executive officer, director, or controlling person of a corporation or other for-profit business entity who is found individually liable for knowingly or recklessly engaging in deceptive conduct, as prohibited by Section 25400.1, shall not be indemnified by the corporation or other for-profit business entity for any costs of defense or amounts paid in settlement or judgment against that person. Nothing in this section shall prohibit a corporation or other for-profit business entity from purchasing insurance on behalf of its directors, officers, employees, or agents to cover liability under this section.

SECTION 7. RELATIONSHIP TO OTHER INITIATIVES

The people recognize that more than one initiative measure dealing with the general matters set forth in this measure may be on the ballot at the same time. It is the intent of the voters that the provisions in this measure be considered, for purposes of Section 10 of Article II of the California Constitution, to be in conflict with any other measure that would either restrict the right to bring securities fraud or misrepresentation actions or the procedures by which such actions are prosecuted, or which would restrict the right of a client and an attorney to contract freely with each other and to enforce such contracts.

SECTION 8. SEVERABILITY

If any provision of this act or its application to any person or circumstance is held invalid, that invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

SECTION 9. AMENDMENT

The provisions of this act may be amended by a statute that becomes effective upon approval by the electorate.

Proposition 212: Text of Proposed Law

This initiative measure is submitted to the people in accordance with the provisions of Article II, Section 8 of the Constitution.

This initiative measure amends, repeals, and adds sections to various codes; therefore, existing provisions proposed to be deleted are printed in ~~strikeout type~~ and new provisions proposed to be added are printed in *italic type* to indicate that they are new.

PROPOSED LAW

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

SECTION 1. Chapter 5 (commencing with Section 85100) of Title 9 of the Government Code is repealed.

SEC. 2. Chapter 5 (commencing with Section 85100) is added to the Government Code, to read:

CHAPTER 5. ANTI-CORRUPTION ACT OF 1996

Article 1. Applicability, Definitions, and Amendment

85100. This chapter shall be known and may be cited as the Anti-Corruption Act of 1996.

85101. The people find and declare as follows:

(a) Our representative system of democracy has been distorted by the increasing role of money in the process. The interests of average voters are not represented in a process which favors candidates who can raise and spend huge sums of money from narrow interests rather than those candidates who represent a broad base of community support.

(b) Politicians have failed to impose rules which are sufficient to govern campaign spending, contributions, and lobbyists to prevent corruption. In the past seven years, the people have witnessed many Members of the Legislature, their staffs, and lobbyists convicted of bribery and other forms of corruption in which campaign contributions have been linked to official actions. Past and current laws did not and do not prevent corruption, therefore the people need the strictest measures possible to prevent corruption in the future.

(c) Large contributions to political committees and political campaigns have a corrupting or potentially corrupting influence on the policymaking and electoral process, resulting in an elections process that distances voters from candidates. Over 90 percent of the money raised by California candidates for public offices comes in contributions of one hundred dollars ($100) or more.

(d) Candidates generally do not seek financial support from people in the district that the candidates seek to represent. State legislators raise over 90 percent of their contributions from people and interests who live outside their district.

(e) Candidates are increasingly reliant on campaign contributions from groups and individuals with a specific financial stake in matters before state and local governments.

(f) While spending on political campaigns has escalated, citizen participation in the political process has declined, and the people know too little about the issues or the particular positions of candidates for elective office. Limits on campaign spending will relieve candidates and officeholders from the need for fundraising. The conduct of both political campaigns and governance thereby will be improved. Campaign expenditures have risen by 4,000 percent since 1958. The increase has consisted principally of contributions from special interests.

(g) The United States Supreme Court based its decision in Buckley v. Valeo, 46 L. Ed. 2d 659, on a concern that spending limits could restrict political speech, "by reducing the number of issues discussed, the depth of their exploration, and the size of the audience reached." The People's experience with the electoral process is otherwise. In California elections, unlimited spending has not increased the reach of issues to more voters. Instead, money has drowned and distorted political discourse.

(h) Current campaign financing arrangements, with the actual and perceived preferential access to lawmakers for special interests capable of contributing sizeable sums to lawmakers' campaigns, have provoked public disaffection with elective government.

(i) Lobbyists have a specific financial stake in legislation and policy and have a corrupting or potentially corrupting effect on elections when they make contributions to candidates for elective office in an executive or legislative body in which they also lobby.

(j) Political parties are increasingly controlled by large special interest contributors. Political parties respond less to average voters' needs and deter voter participation in political organization.

85102. The people enact this chapter to accomplish the following purposes:

(a) To restore trust and integrity in the state's elections and governing institutions.

(b) To eliminate corruption and the perception of corruption by reducing the influence of large contributions from individuals and groups with a specific financial stake in matters before state and local governments.

(c) To ensure, by severing the link between lobbying and campaign fundraising, that individuals and interest groups have an opportunity to participate in elections and governing.

(d) To improve the disclosure of contribution sources in reasonable and effective ways in order to prevent corruption and the appearance of corruption of elections and candidates.

(e) To improve citizen participation in elections by making elected officials and political parties more accountable to constituents than to special interest groups, thereby fostering competition and encouraging greater grassroots participation in political organization.

(f) To relieve candidates for elective office and elected officers from the burdens of excessive fundraising, thereby providing greater opportunity for public debate and political discourse.

85103. Unless the term is defined specifically in this chapter or the contrary is stated or clearly applies from the context, the definitions set forth in this title shall govern the interpretation of this chapter. This chapter shall be construed liberally to achieve its purposes. Nothing in this chapter shall exempt any person from the applicable provisions of this title or of any other law. Nothing in this chapter shall be construed to apply to the activities of any candidate, or committee, or to any election that is specifically subject to the Federal Election Campaign Act of 1971, as amended.

85104. The following terms as used in this chapter have the following meanings:

(a) "Candidate" means that term as defined in Section 82007.

(b) "Committee" means that term as defined in subdivision (a) or (c) of Section 82013, but shall not include a candidate, as defined in subdivision (a) of this section, and shall not include a committee that does not make contributions to candidates. For purposes of this chapter, a political party is a committee unless specific provisions applicable to political parties indicate otherwise.

(c) "Citizen Contribution Committee" means a committee whose membership is compri solely of 25 or more individuals who each make a contribution or contributions which in th aggregate total twenty-five dollars ($25) or less per calendar year per individual member. Such a committee shall be in existence for at least six months prior to making any contribution to any candidate or committee and shall not be controlled by any candidate. Nothing in this section shall prohibit a political party from establishing Citizen Contribution Committees.

(d) "Individual" means one human being.

(e) "Statewide elective office" means the office of Governor, Lieutenant Governor, Attorney General, Controller, Treasurer, Secretary of State, Superintendent of Public Instruction, Justices of the Supreme Court, and Insurance Commissioner, and any other office for which all registered voters of the state are entitled to vote in a general election.

(f) "Voting age population" means the population of the state, city, county, or other electoral district aged 18 years or over as determined by the United States Secretary of Commerce. If for any reason no such determination is made, the commission shall from time to time determine the voting age population from the best readily available sources of information.

Article 2. Candidacy

85200. (a) Prior to the solicitation or receipt of any contribution or loan, an individual who intends to be a candidate for an elective office shall file with the commission and with the local filing officer, if any, with whom he or she is required to file campaign statements pursuant to Section 84215, a statement signed under penalty of perjury of the intention to be a candidate for office and identifying that specific office.

(b) A candidate shall establish one campaign contribution account at an office of a financial institution located in the state. Within 10 calendar days of establishing this account, the name and address of the financial institution and the account number shall be filed with the commission and with the local filing officer, if any, with whom he or she is required to file campaign statements pursuant to Section 84215.

(c) All contributions or loans made to the candidate, or to the candidate's controlled committee, shall be deposited into the account established pursuant to subdivision (b). Any personal funds of the candidate that will be used to promote the election of the candidate shall be deposited into the account. All campaign expenditures shall be made from the account.

Article 3. Contribution Limitations

85301. (a) No person, except a Citizen Contribution Committee, shall make to a candidate, and no candidate shall accept, a contribution or contributions with an aggregate value in excess of the following:

(1) One hundred dollars ($100) per election per candidate other than candidates statewide elective office and the Board of Equalization.

(2) Two hundred dollars ($200) per election per candidate for statewide elective office and the Board of Equalization.

(b) No person shall make one or more contributions to any other person for the purpose of contributing to a specific candidate, which when added together, or when added together with contributions made directly to the candidate by the first person, will have an aggregate value in excess of the limits stated in this section.

(c) Nothing in this chapter shall prohibit independent expenditures by a person.

(d) Nothing in this chapter shall prohibit a candidate from making a contribution or contributions of his or her personal funds to his or her own controlled committee in excess of the limits in this section, except that a candidate's expenditure of personal funds in the aggregate shall not exceed the limitations set forth in Section 85401 to the extent that section is in effect.

(e) This chapter shall not prohibit the state or a local jurisdiction from establishing lower contribution limitations than those set forth in this chapter.

(f) For purposes of this section, primary, general, special, and runoff elections are separate elections.

85302. A Citizen Contribution Committee shall be permitted to make a contribution or contributions to a candidate, and a candidate shall be permitted to accept contributions from a Citizen Contribution Committee to the extent that such contributions do not exceed the maximum amount of what 100 individuals can contribute to a candidate, as set forth in Section 85301.

85303. No person shall make to any committee, and no committee shall accept from any person, one or more contributions with an aggregate value in excess of two hundred dollars ($200) in any calendar year per committee. This provision shall not apply to contributions to candidates, Citizen Contribution Committees, or political parties or to contributions which are otherwise prohibited by law.

85304. (a) No person, except a Citizen Contribution Committee, shall make to a state or local political party organized under the laws of this state for the purpose of making contributions directly or indirectly in connection with state or local elections in California, one or more contributions with an aggregate value in excess of six hundred dollars ($600) per calendar year per political party. No state or local political party organized under the laws of this state shall accept from a person, except a Citizen Contribution Committee, for the purpose of making contributions directly or indirectly in connection with state or local elections in California, one or more contributions with an aggregate value in excess of six hundred dollars ($600) in any calendar year per political party. The limitations of this subdivision shall apply to contributions for generic activities which do not identify a specif candidate as well as to get-out-the-vote, voter file maintenance and all other activities of political party in connection with state or local elections in California. Nothing in th subdivision shall be read to prohibit a Citizen Contribution Committee from making contributions to a political party to the extent that such contributions do not exceed the maximum amount of what 100 persons can contribute to a political party, as set forth above. The limitations of this subdivision shall not apply to contributions to the Voter Registration

Fund of a state or local political party established under subdivision (b).

(b) A state or local political party shall be permitted to establish a Voter Registration Fund for the exclusive purpose of conducting non-candidate-specific, partisan voter registration activities in California. No person shall be permitted to make, nor shall a state or local political party organized under the laws of this state accept, contributions which when aggregated total more than five thousand dollars ($5,000) per person in any calendar year to the Voter Registration Fund. Any administrative or other costs associated with a communication to solicit or otherwise direct contributions to the Voter Registration Fund shall be permitted to be paid through the Voter Registration Fund to the extent that the communication has as its principal purpose to register voters in California.

85305. The following shall apply to limit the amount of aggregate contributions:

(a) No individual shall make contributions with an aggregate value of more than two thousand dollars ($2,000) per calendar year to all state and local candidates, committees, and state or local political parties organized under the laws of this state for the purpose of making contributions directly or indirectly in connection to state or local elections in California. Of this aggregate amount, an individual shall contribute no more than one thousand dollars ($1,000) per calendar year to committees other than political party committees. The limitations of this subdivision shall not apply to contributions to the Voter Registration Fund established by a state or local political party.

(b) No person shall make contributions with an aggregate value of more than ten thousand dollars ($10,000) per calendar year to all state and local candidates, committees, and state and local political parties organized under the laws of this state for the purpose of making contributions directly or indirectly in connection with state or local elections in California. The limitations of this subdivision shall not apply to individuals or Citizen Contribution Committees.

85306. (a) For purposes of seeking elective office, a candidate may not accept more than 25 percent of his or her total dollar value in contributions from individuals who at the time of their contribution were not of the voting age population of the electoral district of the elective office sought by the candidate. The limitations of this subdivision shall not apply to funding provided by federal, state, or local government for purposes of campaigning for an elective office.

(b) Contributions to candidates from persons, other than individuals, shall be treated as contributions from individuals who are not of the voting age population of the electoral district of the elective office sought by the candidate. When aggregated with contributions from individuals who are not of the voting age population of the electoral district as described in subdivision (a), such contributions from persons, other than individuals, shall not total more than 25 percent of the total dollar value of the candidate's contributions. This subdivision shall not apply to contributions from a Citizen Contribution Committee established and maintained within the electoral district of the candidate and 100 percent of whose membership comprises individuals who at the time of their contribution were of the voting age population of the electoral district of the elective office sought by the candidate. For the purposes of this subdivision only, membership less than 100 percent shall not constitute a violation of this provision to the extent that such membership meets the de minimis requirements for membership as set forth in this subdivision.

(c) The percentage of contributions from individuals in subdivision (a) and persons in subdivision (b) shall be reported by the candidate on any campaign statement required to be filed by the candidate pursuant to Chapter 4 (commencing with Section 84100). If any campaign statement filed by a candidate pursuant to Chapter 4 (commencing with Section 84100) indicates, or should indicate, that more than 25 percent of the candidate's total dollar value in contributions is from persons who at the time of their contribution were not, pursuant to subdivisions (a) and (b), individuals of the voting age population of the electoral district of the elective office sought by the candidate, there shall be a violation of this title.

(1) When contributions to a candidate exceed the limits of this section by 10 percent or less of the maximum permissible dollar value, the remedies set forth in Chapter 3 (commencing with Section 83100) and Chapter 11 (commencing with Section 91000) shall apply, except that, when the commission or a court of law assesses a monetary penalty in an administrative or civil action for this violation, the amount of the monetary penalty shall be equal to the amount by which the contributions exceeded the limit.

(2) When contributions to a candidate exceed the limits of this section by more than 10 percent of the maximum permissible dollar value, the remedies set forth in Chapter 3 (commencing with Section 83100) and Chapter 11 (commencing with Section 91000) shall apply, except that, when the commission or a court of law assesses a monetary penalty in an administrative or civil action for this violation, the amount of the monetary penalty shall be three times the amount by which the contributions exceeded the limit, or ten thousand dollars ($10,000), whichever is greater.

(3) The monetary penalty shall be distributed in accordance with Section 91009. Notwithstanding Section 13340, the moneys deposited into this fund are hereby appropriated to the commission for the purpose of enforcing the provisions of this title.

85307. (a) No candidate shall accept or solicit contributions more than nine months before the election for the office for which the candidate has filed his or her statement of intention to be a candidate for elective office pursuant to Section 85200. The commission, or local elections authority designated by the commission in the case of local elections, shall for each election designate the date on which a candidate may begin to accept or solicit contributions.

(b) No candidate shall solicit contributions after the date of the general or runoff election for the office to which the candidate sought election. No candidate shall accept contributions more than 30 calendar days after the date of the general or runoff election for the office to which the candidate sought election.

(c) For purposes of this chapter, all contributions shall be deposited in the candidate's campaign account within 10 calendar days after they are received or, in the alternative, shall be returned to the contributor. Contributions so deposited shall be deemed to have been accepted by the candidate.

85308. (a) No candidate may make any contribution to any other candidate who has established a candidate account pursuant to Section 85200.

(b) This section shall not prohibit a candidate from making a contribution from his or her own personal funds either to his or her own candidacy, to the controlled committee of any other candidate for elective office, or to a recall or ballot measure committee.

(c) This section shall not prohibit a candidate from transferring contributions among his or her own controlled committees, so long as each transfer complies with both of the following:

(1) The transferring committee makes each transfer on a per-contribution basis in reverse chronological order of the contributions it received, beginning with the most recent contributor to the transferring committee.

(2) No transfer, either by itself, or when added to any contribution made by the same contributor to the committee receiving the contribution, shall exceed the amount the same contributor is otherwise permitted, pursuant to this chapter, to contribute to the committee receiving the transferred contribution.

85309. (a) A loan to a candidate or a candidate's controlled committee for the purpose of seeking elective office by a commercial lending institution in the normal course of business shall not be subject to this chapter and shall be made by written instrument from the maker of the loan. A loan by a commercial lending institution shall be made to a candidate bearing the usual and customary interest rate of the lending institution. If the loan is made other than by a commercial lending institution in the normal course of business, then the terms of the loan shall be in writing and provide for payment of at least 80 percent of the prevailing commercial market rate of interest on the loan. All loans shall provide for satisfaction of the loan not later than 30 days after the election for which the candidate has filed or declared.

(b) Extensions of credit for a period of more than 30 calendar days, other than by loans, are considered to be contributions and are subject to the contribution limitations of this chapter.

(c) No candidate shall personally loan to his or her campaign money, goods, or services that have an aggregate value at any one point in time of more than ten thousand dollars ($10,000) or more than twenty-five thousand dollars ($25,000) in the case of a candidate for Governor. Nothing in this section shall prohibit or restrict a candidate from making contributions, other than loans, to his or her own campaign from the personal funds of the candidate.

85310. (a) For purposes of this chapter, a contribution made by a married person shall not also be considered a contribution by that person's spouse.

(b) Contributions by children under the age of 18 years shall be treated as contributions by their parents or guardians.

85311. Any candidate or committee that accepts a contribution made in violation of Section 85301, 85302, 85303, or 85304 shall, not later than 30 days after knowing or having reason to know of that violation, deposit an amount equivalent to the value of that contribution into the Anti-Corruption Act of 1996 Enforcement Fund established by the commission to enforce the provisions of this chapter. If a candidate or committee fails to make this payment within the 30-day period, the candidate or committee shall have violated this section. The remedies set forth in Chapter 3 (commencing with Section 83100) and Chapter 11 (commencing with Section 91000) shall apply to violations of this section, except that when the commission or a court of law assesses a monetary penalty in an administrative or civil action for a violation of this section the amount of the monetary penalty shall be three times the value of the contribution the candidate or committee failed to pay to the commission as required by this section. The statute of limitations shall not apply to this provision. The monetary penalty shall be distributed in accordance with Section 91009. Notwithstanding Section 13340, the moneys deposited into the Anti-Corruption Act of 1996 Enforcement Fund are hereby appropriated to the commission for the purpose of enforcing the provisions of this title.

85312. No candidate shall solicit or accept a contribution from, or arranged or transmitted by, a lobbyist or lobbying firm and no lobbyist or lobbying firm shall make, arrange, or transmit in any way a contribution to a candidate if that lobbyist or lobbying firm is required to register as a lobbyist or lobbying firm either pursuant to Chapter 6 (commencing with Section 86100) or under any other provision of state or local law for the governmental agency or body in which that candidate holds office or to which that candidate is seeking election.

85313. (a) Within 90 days after a candidate withdraws from, is defeated in an election for, or is elected to, an office for which the candidate has filed a statement of intention to be a candidate for elective office pursuant to Section 85200, the candidate shall distribute the balance of campaign funds raised for that election that is in excess of the expenses for the election on a pro rata basis to the candidate's contributors or turn over the excess to the Anti-Corruption Act of 1996 Enforcement Fund for the purposes of enforcing this title.

(b) Any excess campaign funds may be used to pay reasonable attorney's fees and other costs in connection with enforcement proceedings against the candidate or legal challenge to election results. All funds so expended shall be publicly disclosed pursuant to the requirements of Chapter 4 (commencing with Section 84100) and shall be exempt from the attorney-client or any other privilege for nondisclosure.

(c) No contributions may be solicited for the purpose of paying attorney's fees as provided in subdivision (a), except to the extent that the contributions have been raised within the limitations and restrictions of this chapter.

85314. (a) It shall be unlawful for:

(1) Any business entity, labor organization, state or national bank, or nonprofit corporation organized by authority of any law of Congress or any state to make a contribution for the purpose of influencing an election to any elective office or for the purpose of influencing any primary election or political convention or caucus held to select candidates for any elective office.

(2) Any candidate or person knowingly to accept or receive any contribution prohibited by this section.

(3) Any officer or any director of any business entity, labor organization, state or national bank, or nonprofit corporation organized by authority of any law of Congress or any state to consent to any contribution by any business entity, labor organization, state or national bank, or nonprofit corporation prohibited by this section.

(b) The remedies set forth in Chapter 3 (commencing with Section 83100) and Chapter 11 (commencing with Section 91000) shall apply to any business entity, labor organization, state or national bank, or nonprofit corporation that violates this section, except that, when the commission or a court of law assesses a monetary penalty in an administrative or civil action for a violation of this section, the amount of the monetary penalty shall be three times the amount contributed or expended in violation of this section or ten thousand dollars ($10,000), whichever is greater.

(c) In addition to any other administrative or civil remedy applicable under this title, any

officer, director, attorney, accountant, or other agent of the business entity, labor organization, state or national bank, or nonprofit corporation violating any provision of this section or authorizing the violation of this section, or any person who violates or in any way knowingly aids or abets the violation thereof, is guilty of a misdemeanor and, in addition to any other criminal penalties provided by law, a fine of not more than ten thousand dollars ($10,000) may be imposed upon conviction for each violation.

(d) Nothing in this section shall prohibit the employees, shareholders, or members of any business entity, labor organization, state or national bank, or nonprofit corporation organized under the authority of Congress or the laws of any state from establishing a committee that operates free of any support from any business entity, labor organization, state or national bank, or nonprofit corporation organized under the authority of Congress or the laws of any state, subject to the limitations otherwise provided in this chapter.

(e) Nothing in this section shall prohibit a business entity, labor organization, state or national bank, or nonprofit corporation organized under the authority of Congress or the laws of any state from providing indirect support to any Citizen Contribution Committee which receives contributions totaling five thousand dollars ($5,000) or less per calendar year.

(f) Nothing in this section shall prohibit a business entity, labor organization, state or national bank, or nonprofit corporation organized under the authority of Congress or the laws of any state from providing indirect support to any committee, except a political party or candidate, for administration and compliance. Such support shall not include fundraising or related activity, except as provided in subdivision (g).

(g) Nothing in this section shall prohibit a business entity, labor organization, state or national bank, or nonprofit organization organized under the authority of Congress or the laws of any state from providing indirect support to any committee, except a political party or candidate, for fundraising or related activity to the extent that such support is in the aggregate 20 percent or less of the contributions received by that committee per calendar year.

(h) Nothing in this section shall prohibit a business entity, labor organization, state or national bank, or nonprofit corporation organized under the authority of Congress or the laws of this state, which sponsors a committee, from making an expenditure that qualifies as a contribution under this act so long as the business entity, labor organization, state or national bank, or nonprofit corporation is reimbursed by its sponsored committee within 30 days of making the payment.

(i) This section shall not apply to elections to federal office under the jurisdiction of the Federal Election Campaign Act of 1971, as amended.

85315. Nothing in this act shall prohibit a labor organization, state or national bank, business entity, nonprofit corporation, or committee from paying the costs of internal communications with its members, employees, or shareholders for the purpose of supporting or opposing a candidate or candidates for elective office or a ballot measure. Such expenditures shall not be considered a contribution or independent expenditure under the provisions of this act, provided such payments are not for the costs of campaign materials used in connection with broadcasting, newspaper, billboard, or similar type of general public communication.

85316. Contributions made directly or indirectly to or on behalf of a particular candidate through an intermediary or conduit shall be treated as contributions from the contributor and the intermediary or conduit to the candidate for the purposes of this limitation unless the intermediary or conduit is one of the following:

(a) The candidate or representative of the candidate receiving contributions on behalf of the candidate; provided, however, that the representative shall not include the following persons:

(1) A committee other than the candidate's campaign committee.

(2) An officer, employee, or agent of a committee other than the candidate's campaign committee.

(3) A person registered as a lobbyist with the governmental agency for which the candidate is running or is an officeholder.

(4) An officer, employee, or agent of a labor organization, business entity, or other organization acting on behalf of the labor organization, business entity, or other organization.

(b) A volunteer, who otherwise does not fall under subdivision (a), hosting a fundraising event outside and away from the volunteer's place of business.

(c) A professional fundraiser.

85317. No person appointed to a public board or commission or as Trustee of the California State University or Regent of the University of California during tenure in office shall donate to, or solicit or accept any campaign contribution for, any committee controlled by the person who made the appointment to that office or any other entity with the intent that the recipient of the donation is the committee controlled by the person who made the appointment.

Article 4. Expenditure Limitations

85401. (a) A candidate for State Assembly shall not make expenditures for the primary or special primary election which exceed an amount equal to seventy-five thousand dollars ($75,000) and for the general, special, or special runoff election which exceed one hundred fifty thousand dollars ($150,000).

(b) A candidate for State Senate and Board of Equalization shall not make expenditures for the primary or special primary election which exceed an amount equal to one hundred fifteen thousand dollars ($115,000) and for the general, special, or special runoff election which exceed two hundred thirty-five thousand dollars ($235,000).

(c) A candidate for statewide office, other than Governor, shall not make expenditures for the primary or special primary election which exceed an amount equal to one million two hundred fifty thousand dollars ($1,250,000) and for the general, special, or special runoff election which exceed one million seven hundred fifty thousand dollars ($1,750,000).

(d) A candidate for Governor shall not make expenditures for the primary or special primary election which exceed an amount equal to two million dollars ($2,000,000) and for the general, special, or special runoff election which exceed five million dollars ($5,000,000).

(e) Any local jurisdiction, municipality, or county shall establish expenditure limitations for candidates and controlled committees of such candidates for elective office not to exceed forty cents ($0.40) per election per individual of the voting age population of the local jurisdiction, municipality, or county.

(f) A candidate who exceeds the limitations in subdivisions (a) through (d) by 10 percent or less of the expenditure limit shall be in violation of this section and required to repay the excess amount to contributors on a pro rata basis or pay the excess amount to the Anti-Corruption Act of 1996 Enforcement Fund. In addition, the remedies set forth in Chapter 3 (commencing with Section 83100) and Chapter 11 (commencing with Section 91000) shall apply to violations of this section covered by this subdivision, except that, when the commission or a court of law assesses a monetary penalty in an administrative or civil action for such a violation, the amount of the monetary penalty shall be three times the amount by which the candidate exceeded the expenditure limit. The monetary penalty shall be distributed in accordance with Section 91009. Notwithstanding Section 13340, the moneys deposited into the Anti-Corruption Act of 1996 Enforcement Fund are hereby appropriated to the commission for the purpose of enforcing the provisions of this title.

(g) A candidate who exceeds the limitations in subdivisions (a) through (d) by greater than 10 percent of the expenditure limit shall be in violation of this section and required to repay the excess amount to contributors on a pro rata basis or pay the excess amount to the Anti-Corruption Act of 1996 Enforcement Fund. In addition, the remedies set forth in Chapter 3 (commencing with Section 83100) and Chapter 11 (commencing with Section 91000) shall apply to violations of this section covered by this subdivision, except that, when the commission or a court of law assesses a monetary penalty in an administrative or civil action for such a violation, the amount of the monetary penalty shall be three times the amount by which the candidate exceeds the expenditure limit or twenty thousand dollars ($20,000), whichever is greater. The monetary penalty shall be distributed in accordance with Section 91009. Notwithstanding Section 13340, the moneys deposited into the Anti-Corruption Act of 1996 Enforcement Fund are hereby appropriated to the commission for the purpose of enforcing the provisions of this title.

(h) In the event that the expenditure limitations set forth in this section are not in effect, Sections 85402 through 85404 shall apply.

85402. (a) Each candidate for elective office shall file, with the Secretary of State and the commission or the local elections authority designated by the commission for local elections, a statement as to whether or not the candidate will abide by the voluntary expenditure limitations set forth in Section 85403 before accepting any contributions or loans for his or her campaign.

(b) The declaration of intent to abide by or reject the voluntary expenditure limitations filed pursuant to this section shall be under penalty of perjury and certify that, with respect to the election for the office sought by the candidate, the candidate will or will not incur expenditures in excess of the applicable expenditure limitation.

(c) The Secretary of State shall prescribe the form for filing the information required by this section, which shall include, but not be limited to, all of the following:

(1) The name of the candidate by which he or she is commonly known and by which he or she transacts private or official business.

(2) The mailing address of the residence of the candidate.

(3) A signed declaration by the candidate, under penalty of perjury, stating whether or not he or she will abide by the voluntary expenditure limitations set forth in Section 85403.

(4) The applicable voluntary expenditure limitation for that office.

(5) Other information as may be determined by the commission.

(d) A candidate for elective office who files the statement of acceptance of the voluntary expenditure limitations prescribed in Section 85403 and who, subsequent to filing the statement of acceptance, exceeds the prescribed limits shall be subject to the following:

(1) If the amount by which the candidate exceeds the prescribed limits is less than 5 percent of the expenditure limit, the candidate or his or her controlled committee shall be required to repay the excess amounts to contributors on a pro rata basis or pay the excess amount to the Anti-Corruption Act of 1996 Enforcement Fund not later than 10 days after the election. No further administrative, civil, or criminal penalty shall be imposed against a candidate who complies with this paragraph. Otherwise, the remedies set forth in Chapter 3 (commencing with Section 83100) and Chapter 11 (commencing with Section 91000) shall apply to violations of this paragraph.

(2) If the amount by which the candidate exceeds the prescribed limits is 5 percent to less than 10 percent of the expenditure limit, the candidate shall be in violation of this section and required to repay the excess amounts to contributors on a pro rata basis or deposit the amount to the Anti-Corruption Act of 1996 Enforcement Fund not later than 10 days after the election. In addition, the remedies set forth in Chapter 3 (commencing with Section 83100) and Chapter 11 (commencing with Section 91000) shall apply to violations of this section covered by this paragraph, except that, when the commission or a court of law assesses a monetary penalty in an administrative or civil action for such a violation, the amount of the monetary penalty shall be equal to two times the amount by which the candidate exceeds the expenditure limit. The monetary penalty shall be distributed in accordance with Section 91009. Notwithstanding Section 13340, the moneys deposited into the Anti-Corruption Act of 1996 Enforcement Fund are hereby appropriated to the commission for the purpose of enforcing the provisions of this title.

(3) If the amount by which the candidate exceeds the prescribed limits is 10 percent or more of the expenditure limit, the candidate shall be in violation of this section and required to repay the excess amount to contributors on a pro rata basis or pay the excess amount to the Anti-Corruption Act of 1996 Enforcement Fund not later than 10 days after the election. In addition, the remedies set forth in Chapter 3 (commencing with Section 83100) and Chapter 11 (commencing with Section 91000) shall apply to violations of this section covered by this paragraph, except that, when the commission or a court of law assesses a monetary penalty in an administrative or civil action for such a violation, the amount of the monetary penalty shall be equal to three times the amount by which the candidate exceeds the expenditure limit. The monetary penalty shall be distributed in accordance with Section 91009. Notwithstanding Section 13340, the moneys deposited into the Anti-Corruption Act of 1996 Enforcement Fund are hereby appropriated to the commission for the purpose of enforcing the provisions of this title. In addition, the candidate, in the manner prescribed by the commission but at no cost to the public, shall notify all eligible voters for that election that he or she exceeded t expenditure limit.

(e) The provisions of this section shall apply only in the event that Section 85401 is not in effect.

85403. A candidate for elective office may file a voluntary declaration with the Secretary of State and the commission stating that he or she agrees to abide by voluntary spending limits as follows:

(a) A candidate for State Assembly agrees not to make expenditures for the primary or special primary election which exceed an amount equal to seventy-five thousand dollars ($75,000) and for the general, special, or special runoff election which exceed one hundred fifty thousand dollars ($150,000).

(b) A candidate for State Senate and Board of Equalization agrees not to make expenditures for the primary or special election which exceed an amount equal to one hundred fifteen thousand dollars ($115,000) and for the general, special, or special runoff election which exceed two hundred thirty-five thousand dollars ($235,000).

(c) A candidate for statewide office, other than Governor, agrees not to make expenditures for the primary election which exceed an amount equal to one million two hundred fifty thousand dollars ($1,250,000) and for the general election which exceed one million seven hundred fifty thousand dollars ($1,750,000).

(d) A candidate for Governor agrees not to make expenditures for the primary election which exceed an amount equal to two million dollars ($2,000,000) and for the general, special, or special runoff election which exceed five million dollars ($5,000,000).

(e) Any local jurisdiction, municipality, or county may establish voluntary expenditure limitations for candidates and controlled committees of such candidates for elective office not to exceed forty cents ($0.40) per election per individual of the voting age population of the local jurisdiction, municipality, or county.

(f) The provisions of this section shall apply only in the event that Section 85401 is not in effect.

85404. (a) For each candidate for statewide elective office who, pursuant to Section 85402, has agreed to abide by the voluntary expenditure limitations in Section 85403, the Secretary of State shall publish, at no charge to the candidate, the information set forth in subdivision (e). Publication shall be made in the state ballot pamphlet.

(b) For each candidate for state legislative office or Board of Equalization who, pursuant to Section 85402, has agreed to abide by the voluntary expenditure limitations in Section 85403, the Secretary of State shall publish, at no charge to the candidate, the information set forth in subdivision (e). In conjunction with the applicable local elections official, publication shall be made in the local ballot pamphlet, unless, but for this subdivision, no local ballot pamphlet will be issued in conjunction with that election, in which case this subdivision shall not apply. The Secretary of State shall bear the pro rata cost of printing, handling, translating, and mailing the local ballot pamphlet for state legislative office or Board of Equalization.

(c) For each candidate for local office who, pursuant to Section 85402, has agreed to abide by the voluntary expenditure limitations in Section 85403, the local elections official shall publish, at no charge to the candidate, the information set forth in subdivision (e). Publication shall be made in the local ballot pamphlet, unless, but for this subdivision, no local ballot pamphlet will be issued in conjunction with that election, in which case this subdivision shall not apply.

(d) For each candidate who does not agree to comply with the voluntary expenditure limitations in Section 85403, the Secretary of State or local elections official, as applicable, shall only publish the information set forth in subdivision (e) on behalf of that candidate if the candidate pays, in a timely manner prescribed by the Secretary of State or local elections official, an amount equal to the pro rata or incremental costs of printing, handling, translating, mailing, and related costs in providing the information in the applicable ballot pamphlet. However, if pursuant to subdivision (b) or (c) no ballot pamphlet otherwise will be mailed in conjunction with that election, this subdivision shall not apply.

(e) The information to be published pursuant to subdivisions (a), (b), (c), and (d) shall be as follows:

(1) The candidate's name, address, and the elective office sought by the candidate.

(2) A statement of not more than 200 words submitted by the candidate, setting forth the candidate's background, qualifications, and priorities. The statement may also include a photograph of the candidate.

(3) A list submitted by the candidate of not more than a total of five individuals, candidates, or organizations who have endorsed the candidate. The candidate shall provide to the Secretary of State or local elections official, as applicable, a statement of endorsement on the letterhead or with the authorized signature of each endorser to be listed.

(4) A statement, in boldface type equal in size to that used for the candidate's name, as follows: "Candidate accepted voluntary spending limits approved by the voters in 1996"; or in the case of a candidate who does not accept the voluntary spending limits as follows: "Candidate did not accept voluntary spending limits approved by the voters in 1996."

*(f) The local elections official shall, in consultation with and in a manner prescribed by the Secretary of State, designate on the ballot those candidates who, pursuant to Section 85402, have agreed to comply with the voluntary expenditure limitations in Section 85403. These candidates shall be identified by placing an asterisk (*) next to their names on the ballot, and each page of the ballot shall contain the following statement: " * Candidate accepted voluntary spending limits approved by the voters in 1996." Alternatively, candidates who do not accept the voluntary spending limits shall be identified by placing a double asterisk (**) next to their names on the ballot and each page of the ballot shall contain the following statement: " ** Candidate did not accept voluntary spending limits approved by the voters in 1996."*

(g) The provisions of this section shall apply only in the event that Section 85401 is not in effect.

85405. The commission shall adjust the expenditure limitations set forth in Section 85401, or Section 85403 if Section 85401 is not in effect, to reflect changes in the Consumer Price Index for California rounded to the nearest one dollar ($1) in January of every odd-numbered year after this chapter becomes operative.

85406. A candidate who uses his or her personal funds to seek election shall report expenditures of personal funds to the commission at the first instance that the aggregate expenditure or obligation for expenditures of personal funds is 10 percent or more of the expenditure limitations set forth in Section 85401 or 85403, whichever is in effect. Thereafter, aggregate expenditures or obligations for expenditures of personal funds of a candidate shall be reported to the commission on the candidate's campaign statement at each subsequent reporting period. A candidate who makes expenditures of personal funds of 10 percent or more of the expenditure limitations set forth in Section 85401 or 85403, whichever is in effect, during the 10-day period before the day of the election shall notify, by personal delivery, facsimile, or other electronic means, the commission and all candidates for election to the office sought by the candidate making expenditures or obligations for expenditures of personal funds. Such notification shall be made at each expenditure of 10 percent of the expenditure limitations set forth in Section 85401 or 85403, whichever is in effect. The notification shall occur within 12 hours of expenditures or obligations for expenditures under this subdivision.

85407. (a) For purposes of this chapter, "independent expenditure" means an expenditure for an advertisement or other communication that: (1) contains express advocacy; and (2) is not made at the behest of a candidate or a candidate's agent or arranged, coordinated, or directed by the candidate or the candidate's agent.

(b) For purposes of this chapter, the following expenditures are not independent expenditures and, unless an exception is otherwise set forth in this title, shall be considered contributions to a candidate if they result in communications that expressly advocate that candidate's election or the defeat of that candidate's opponent:

(1) An expenditure made by a political party.

(2) An expenditure in which there is any arrangement, coordination, or direction with respect to the expenditure between the candidate or the candidate's agent and the person making the expenditure.

(3) An expenditure in which, in the calendar year in which the election is to be held, the person making the expenditure is or has been: (A) authorized to raise or expend funds on behalf of the candidate or the candidate's controlled committee; or (B) serving as a member, employee, or agent of the candidate's controlled committee in an executive or policymaking position.

(4) An expenditure in which the person making the expenditure retains the professional services of any individual or other person who is also providing professional services in the same election to the candidate in connection with the candidate's pursuit of nomination for election, or election, to office, including any services relating to the candidate's decision to seek office. "Professional services" shall include any services in support of any candidate's pursuit of nomination for election, or election, to office.

(c) For purposes of this section, the person making the expenditure shall include any officer, director, employee, or individual involved in making the expenditure for purposes of this subdivision.

(d) For purposes of this chapter, "express advocacy" means a communication which when taken as a whole and with limited reference to external events is an expression of support for, or opposition to, the election of a clearly identified candidate, a specific group of candidates, or candidates of a particular political party.

(e) Any independent expenditure is not considered a contribution to or an expenditure by or on behalf of the candidate with whom it is identified for the purposes of the limitations specified in this chapter.

(f) Any person who violates this section shall be strictly liable under Chapter 11 (commencing with Section 91000).

85408. (a) Any person who makes independent expenditures in support of or in opposition to a clearly identified candidate in the aggregate amount of one thousand dollars ($1,000) or more per election shall notify the filing officer and all candidates running for the same office within 24 hours by facsimile transmission or other electronic medium prescribed by the commission or local elections authority designated by the commission, and by overnight delivery for each subsequent independent expenditure that is five thousand dollars ($5,000) or more.

(b) No person, except a Citizen Contribution Committee, shall contribute more than two hundred dollars ($200) to any committee which makes independent expenditures greater than one thousand dollars ($1,000) per election in support of or in opposition to a clearly identified candidate. A Citizen Contribution Committee shall be limited to contributing to any committee which makes independent expenditures greater than one thousand dollars ($1,000) per election in support of or in opposition to a clearly identified candidate no more than the maximum amount that can be contributed by 100 individuals to such committee.

85409. Upon filing a statement of organization under Section 84101, a committee shall be charged a registration fee of one hundred dollars ($100) per calendar year. This registration fee shall be paid to the Secretary of State for the purpose of administering this chapter.

LOBBYIST PROVISIONS

SEC. 3. Section 82039 of the Government Code is repealed.

~~82039. "Lobbyist" means any individual who is employed or contracts for economic consideration, other than reimbursement for reasonable travel expenses, to communicate directly or through his or her agents with any elective state official, agency official or legislative official for the purpose of influencing legislative or administrative action, if a substantial or regular portion of the activities for which he or she receives consideration is for the purpose of influencing legislative or administrative action. No individual is a lobbyist by reason of activities described in Section 86300.~~

SEC. 4. Section 82039 is added to the Government Code, to read:

82039. "Lobbyist" means any individual who either receives five hundred dollars ($500) or more in any calendar month per calendar year in economic consideration from another person, or who, regardless of any economic consideration, is an employee, professional, or agent, and whose principal and substantial duties in that capacity are, to communicate directly with any elective state official, agency official, or designated employee as defined in Section 82019 for the purpose of influencing legislative or administrative action. No individual is a lobbyist by reason of activities described in Section 86300. For purposes of this section, reimbursement solely for reasonable travel expenses is not economic consideration. For purposes of this section, neither the rule preventing disclosure of an attorney's work product nor any privilege against disclosure based on the attorney-client relationship shall apply to any required report or disclosure under this title, unless expressly required by the United States Constitution or the California Constitution.

SEC. 5. Section 86102 of the Government Code is amended to read:

86102. Each lobbying firm and lobbyist employer required to file a registration statement under this chapter ~~may~~ *shall* be charged ~~not more than twenty-five dollars ($25)~~ *one hundred dollars ($100)* per year for each lobbyist required to be listed on its registration statement.

SEC. 6. Section 86203 of the Government Code is amended to read:

86203. It shall be unlawful for a lobbyist, or lobbying firm, to make ~~gifts to one person aggregating more than ten dollars ($10) in a calendar month, or to act as an agent or~~

~~intermediary in the making of any gift, or to arrange for the making of any gift by any other person~~ *a gift, to act as an agent or intermediary in the making of a gift, or to arrange for the making of a gift by any other person .*

SEC. 7. Section 17221 is added to the Revenue and Taxation Code, to read:

17221. (a) Notwithstanding Section 17201, no deduction shall be allowed for any expenses paid or incurred during the taxable year as described in Section 162(e)(1) of the Internal Revenue Code, relating to appearances before, submission of statements to, or sending communications to, any employee or officer of the legislative branch or the executive branch of the state, or any political subdivision thereof, with respect to any rulemaking or any quasi-legislative function of the executive branch of the state or any political subdivision thereof.

(b) For purposes of this section, the expenses described by Section 162(e)(1) of the Internal Revenue Code shall include "lobbying expenditures" as defined in Section 4911(c)(1) of the Internal Revenue Code, and shall also include as a "lobbying expenditure" any expenditure incurred in attempting to influence any action of the legislative branch or executive branch of any government by communication with any employee, officer, member, or agency of the executive branch of federal, state, or local government, or any other similar governing body.

SEC. 8. Section 24335 is added to the Revenue and Taxation Code, to read:

24335. (a) No deduction shall be allowed for any expenses paid or incurred in the taxable year as described in Section 162(e)(1) of the Internal Revenue Code, relating to appearances before, submission of statements to, or sending communications to, any employee or officer of the legislative branch or the executive branch of the state, or any political subdivision thereof, with respect to any rulemaking or any quasi-legislative function of the executive branch of the state or any political subdivision thereof.

(b) For purposes of this section, the expenses described by Section 162(e)(1) of the Internal Revenue Code shall include "lobbying expenditures" as defined in Section 4911(c)(1) of the Internal Revenue Code, and shall also include as a "lobbying expenditure" any expenditure incurred in attempting to influence any action of the legislative branch or executive branch of any government by communication with any employee, officer, member, or agency of the executive branch of the federal, state, or local government, or any other similar governing body.

DISCLOSURE IN CAMPAIGN ADVERTISEMENTS

SEC. 9. Article 5 (commencing with Section 84501) is added to Chapter 4 of Title 9 of the Government Code, to read:

Article 5. Disclosure in Campaign Advertisements

84501. (a) "Advertisement" means any general or public advertisement which is authorized and paid for by a person or committee for the purpose of supporting or opposing one or more ballot measures or an independent expenditure supporting or opposing one or more candidates for office.

(b) "Advertisement" does not include a communication from an organization to its members, electronic broadcasts of less than 15 seconds, or other small advertisements as determined by regulations of the commission.

(c) "Advertisement" includes phone banks where the caller is paid; but not where the caller is a volunteer, even if the phone charges are paid by the committee.

(d) "Cumulative contributions" means the cumulative contributions to a committee beginning the first day the statement of organization is filed under Section 84101 and ending within seven days of the time the advertisement is sent to the printer, broadcast station, or other person doing the advertising.

84502. (a) Any advertisement as defined in Section 84501 shall include a disclosure statement identifying any person whose cumulative contributions are fifty thousand dollars ($50,000) or more in a statewide campaign, or twenty-five thousand dollars ($25,000) or more in nonstatewide campaigns to the committee placing the advertisement.

(b) The disclosure for individuals shall read "major funding by: (name and occupation)." The disclosure for nonindividuals shall read "major funding by: (name and business interest)." The commission shall issue regulations defining "occupation" and "business interest," including regulations regarding the omission of the business interest disclosure when the name of a nonindividual fully describes the business interest.

(c) If there are more than three donors of twenty-five thousand dollars ($25,000) or more, the committee is only required to disclose the highest, second highest, and third highest in that order. If more than three donors contribute twenty-five thousand dollars ($25,000) or more in equal amounts, the committee is required to disclose those contributors in chronological order.

(d) If the committee has received at least one quarter of its cumulative contributions from outside the jurisdiction where the election is being held, the disclosure shall state "major funding from out-of-state (city, county, or district, etc.) contributors."

84503. (a) Any committee which supports or opposes one or more ballot measures shall name and identify itself using a name or phrase that clearly identifies the economic or other special interest of its major donors of twenty-five thousand dollars ($25,000) or more in any reference to the committee required by law, including, but not limited to, its statement of organization pursuant to Section 84101.

(b) If the major donors of twenty-five thousand dollars ($25,000) or more share a common employer, the identity of the employer shall also be disclosed.

(c) Any committee which supports or opposes a ballot measure shall print or broadcast its name as provided in this section as part of any advertisement.

(d) If candidates or their controlled committees, as a group or individually, meet the contribution thresholds for a person, they shall be identified by the candidate's name.

84504. Any disclosure statement required by this article shall be printed clearly and legibly and in a conspicuous manner as defined by the commission, prominently on the front page of any written advertisement (including outdoor advertisements) or, if the communication is broadcast or spoken, the information shall be spoken so as to be clearly audible and understood by the intended public. The commission shall issue regulations to ensure that all disclosures required by this article shall stand alone, that is, they shall not have any other words or materials mixed in with them.

CONFLICT OF INTEREST

SEC. 10. Section 83116.5 of the Government Code is amended to read:

83116.5. Any person ~~who violates any provision of this title,~~ who purposely or negligently causes any other person to violate any provision of this title, or who aids and abets any other person in the violation of any provision of this title, shall be liable under the provisions of this ~~chapter~~ *title* . ~~Provided, however, that~~ *However, unless specified otherwise in this title,* this section shall apply only to persons who have filing or reporting obligations under this title, or who are compensated for services involving the planning, organizing, directing *of* any activity regulated or required by this title ; ~~and that a violation of this section shall not constitute an additional violation under Chapter 11~~ .

SEC. 11. Section 84308 of the Government Code is amended to read:

84308. (a) The definitions set forth in this subdivision shall govern the interpretation of this section.

(1) "Party" means any person who files an application for, or is the subject of, a proceeding involving a license, permit, or other entitlement for use.

(2) "Participant" means any person who is not a party but who actively supports or opposes a particular decision in a proceeding involving a license, permit, or other entitlement for use and who has a financial interest in the decision, as described in Article 1 (commencing with Section 87100) of Chapter 7. A person actively supports or opposes a particular decision in a proceeding if he or she lobbies in person the officers or employees of the agency, testifies in person before the agency, or otherwise acts to influence officers of the agency.

(3) "Agency" means an agency as defined in Section 82003 except that it does not include the courts or any agency in the judicial branch of government, local governmental agencies whose members are directly elected by the voters, the Legislature, the Board of Equalization, or *elected* constitutional officers. However, this section applies to any person who is a member of an exempted agency but is acting as a voting member of another agency.

(4) "Officer" means any elected or appointed officer of an agency, any alternate to an elected or appointed officer of an agency, and any candidate for elective office in an agency.

(5) "License, permit, or other entitlement for use" means all business, professional, trade and land use licenses and permits and all other entitlements for use, including all entitlements for land use, all contracts (other than competitively bid, labor, or personal employment contracts), and all franchises *and includes any proceedings affecting a rate, price, or premium that a licensee, permittee, or person may charge .*

(6) "Contribution" includes contributions to candidates and committees in federal, state, or local elections.

(b) No officer of an agency shall accept, solicit, or direct a contribution ~~of more than two hundred fifty dollars ($250)~~ from any party, or his or her agent, or from any participant, or his or her agent, while a proceeding involving a license, permit, or other entitlement for use is pending before the agency and for three months following the date a final decision is rendered in the proceeding if the officer knows or has reason to know that the participant has a financial interest, as that term is used in Article 1 (commencing with Section 87100) of Chapter 7. This prohibition shall apply regardless of whether the officer accepts, solicits, or directs the contribution for himself or herself, or on behalf of any other officer, or on behalf of any candidate for office or on behalf of any committee.

(c) Prior to rendering any decision in a proceeding involving a license, permit or other entitlement for use pending before an agency, each officer of the agency who received a contribution within the preceding 12 months in an amount of more than ~~two hundred fifty dollars ($250)~~ *one hundred dollars ($100)* from a party or from any participant shall disclose that fact on the record of the proceeding. No officer of an agency shall make, participate in making, or in any way attempt to use his or her official position to influence the decision in a proceeding involving a license, permit, or other entitlement for use pending before the agency if the officer has willfully or knowingly received a contribution in an amount of more than ~~two hundred fifty dollars ($250)~~ *two hundred dollars ($200)* within the preceding 12 months from a party or his or her agent, or from any participant, or his or her agent if the officer knows or has reason to know that the participant has a financial interest in the decision, as that term is described with respect to public officials in Article 1 (commencing with Section 87100) of Chapter 7.

If an officer receives a contribution which would otherwise require disqualification under this section, returns the contribution within 30 days from the time he or she knows, or should have known, about the contribution and the proceeding involving a license, permit, or other entitlement for use, he or she shall be permitted to participate in the proceeding.

(d) A party to a proceeding before an agency involving a license, permit, or other entitlement for use shall disclose on the record of the proceeding any contribution in an amount of more than ~~two hundred fifty dollars ($250)~~ *one hundred dollars ($100)* made within the preceding 12 months by the party, or his or her agent, to any officer of the agency. No party, or his or her agent, to a proceeding involving a license, permit, or other entitlement for use pending before any agency and no participant, or his or her agent, in the proceeding shall make a contribution ~~of more than two hundred fifty dollars ($250)~~ to any officer of that agency during the proceeding and for three months following the date a final decision is rendered by the agency in the proceeding. When a closed corporation is a party to, or a participant in, a proceeding involving a license, permit, or other entitlement for use pending before an agency, the majority shareholder is subject to the disclosure and prohibition requirements specified in subdivisions (b), (c), and this subdivision.

(e) Nothing in this section shall be construed to imply that any contribution subject to being reported under this title shall not be so reported. *In addition, nothing in this section shall be construed to authorize the making or acceptance of any contribution in excess of any contribution limitation set forth in this title. Any violation of the disclosure provisions of either subdivision (c) or (d) creates a rebuttable presumption that the action shall be void in an action brought pursuant to Chapter 11 (commencing with Section 91000).*

SEC. 12. Section 87102 of the Government Code is amended to read:

87102. The requirements of Section 87100 are in addition to the requirements of Articles 2 (commencing with Section 87200) and 3 (commencing with Section 87300) and any Conflict of Interest Code adopted thereunder. ~~Except as provided in Section 87102.5, the~~ remedies provided in Chapters 3 (commencing with Section 83100) and 11 (commencing with Section 91000) shall ~~not~~ be applicable to elected state officers for violations or threatened violations of ~~this article~~ *Section 87100 only under the conditions set forth in Sections 87102.5, 87102.6, and 87102.8, as applicable .*

SEC. 13. Article 1 (commencing with Section 89500) of Chapter 9.5 of Title 9 of the Government Code is repealed.

SEC. 14. Article 2 (commencing with Section 89504) of Chapter 9.5 of Title 9 of the Government Code is repealed.

SEC. 15. Article 3 (commencing with Section 89506) of Chapter 9.5 of Title 9 of the Government Code is repealed.

DISPOSITION OF CAMPAIGN FUNDS

SEC. 16. The heading of Article 4 (commencing with Section 89510) of Chapter 9.5 of Title 9 of the Government Code is amended to read:

Article ~~4~~ 2. Campaign Funds

SEC. 17. Section 89519 of the Government Code is repealed.

~~89519. Upon leaving any elected office, or at the end of the postelection reporting period following the defeat of a candidate for elective office, whichever occurs last, campaign funds raised after January 1, 1989, under the control of the former candidate or elected officer shall be considered surplus campaign funds and shall be disclosed pursuant to Chapter 4 (commencing with Section 84100) and shall be used only for the following purposes:~~

~~(a) (1) The payment of outstanding campaign debts or elected officer's expenses.~~

~~(2) For purposes of this subdivision, the payment for, or the reimbursement to the state of, the costs of installing and monitoring an electronic security system in the home or office, or both, of a candidate or elected officer who has received threats to his or her physical safety shall be deemed an outstanding campaign debt or elected officer's expense, provided that the threats arise from his or her activities, duties, or status as a candidate or elected officer and that the threats have been reported to and verified by an appropriate law enforcement agency. Verification shall be determined solely by the law enforcement agency to which the threat was reported. The candidate or elected officer shall report any expenditure of campaign funds made pursuant to this section to the commission. The report to the commission shall include the date that the candidate or elected officer informed the law enforcement agency of the threat, the name and phone number of the law enforcement agency, and a brief description of the threat. No more than five thousand dollars ($5,000) in surplus campaign funds may be used, cumulatively, by a candidate or elected officer pursuant to this subdivision. Payments made pursuant to this subdivision shall be made during the two years immediately following the date upon which the campaign funds became surplus campaign funds. The candidate or elected officer shall reimburse the surplus campaign fund account for the fair market value of the security system no later than two years immediately following the date upon which the campaign funds become surplus campaign funds, upon sale of the property on which the system is installed, or prior to the closing of the surplus campaign fund account, whichever comes first. The electronic security system shall be the property of the campaign committee of the candidate or elected officer.~~

~~(b) The pro rata repayment of contributions.~~

~~(c) Donations to any bona fide charitable, educational, civic, religious, or similar tax-exempt, nonprofit organization, where no substantial part of the proceeds will have a material financial effect on the former candidate or elected officer, any member of his or her immediate family, or his or her campaign treasurer.~~

~~(d) Contributions to a political party or committee so long as the funds are not used to contributions in support of or opposition to a candidate for elective office.~~

~~(e) Contributions to support or oppose any candidate for federal office, any candidate for elective office in a state other than California, or any ballot measure.~~

~~(f) The payment for professional services reasonably required by the committee to assist in the performance of its administrative functions, including payment for attorney's fees for litigation which arises directly out of a candidate's or elected officer's activities, duties, or status as a candidate or elected officer, including, but not limited to, an action to enjoin defamation, defense of an action brought of a violation of state or local campaign, disclosure, or election laws, and an action arising from an election contest or recount.~~

SEC. 18. Section 89519 is added to the Government Code, to read:

89519. After a candidate withdraws from or is defeated in an election for, or is elected to, an office for which he or she has filed a statement of intention to be a candidate for elective office pursuant to Section 85200, Section 85313 shall govern the disposition of his or her campaign funds raised for that election.

ENFORCEMENT

SEC. 19. Section 91002 of the Government Code is amended to read:

91002. *(a)* No person convicted of a misdemeanor under this title shall be a candidate for any elective office or act as a lobbyist for a period of four years following the date of the conviction unless the court at the time of sentencing specifically determines that this provision shall not be applicable. A plea of nolo contendere shall be deemed a conviction for purposes of this section. Any person violating this section is guilty of a felony.

(b) Any person, having previously been convicted of a misdemeanor under this title and subject to Section 91002, may, in the discretion of the criminal prosecutor, be charged for any subsequent violation with a misdemeanor or a felony.

(c) Any person who has previously been fined twice under any provision or provisions of this title shall immediately upon entry of a final judgment or issuance of an order imposing a fine in the third such action, be removed from any public office held in the state pursuant to Section 1770, have their name stricken from the registration list maintained under Article 1 (commencing with Section 86100) of Chapter 6, and thereafter may not be a candidate for any elective office or act as a lobbyist, lobbying firm, or lobbyist employer.

SEC. 20. Section 91003 of the Government Code is amended to read:

91003. ~~(a) Any person residing in the jurisdiction may sue for injunctive relief to enjoin violations or to compel compliance with the provisions of this title.~~ The court may in its discretion require any plaintiff other than the commission to file a complaint with the commission prior to seeking injunctive relief. The court may award to a plaintiff or defendant who prevails his *or her* costs of litigation, including reasonable attorney's fees.

(a) Any resident registered to vote in the jurisdiction may sue for injunctive relief or a temporary restraining order to enjoin violations or to compel compliance with the provisions of this title. The matter shall be given priority on the court's calendar and shall be heard at the earliest possible time with the purpose that any action, conduct, misconduct, or failure to act, report, disclose, or take any other action required by this title be remedied so as not to in any way prejudice the voters or the election. The court may in its discretion require any plaintiff other than the commission to file a complaint with the commission but that decision shall in no way divest the court of jurisdiction to hear the matter or delay the issuance of any appropriate relief. In any action to enforce this title, the court shall award to a plaintiff who prevails his or her costs of litigation, including reasonable attorney's fees. The court may award to a defendant who prevails his or her costs of litigation, including reasonable attorney's fees, only if the court finds, on the record, that the matter was frivolous, or brought in bad faith or for some other improper purpose. The provisions of Section 425.16 of the Code of Civil Procedure shall not apply to any action filed pursuant to this section.

(b) Upon a preliminary showing in an action brought ~~by a person residing in the jurisdiction~~ *pursuant to this section* that a violation of Article 1 (commencing with Section 87100), Article 4 (commencing with Section 87400), or Article 4.5 (commencing with Section 87450) of Chapter 7 of this title or of a disqualification provision of a Conflict of Interest Code has occurred, the court may restrain the execution of any official action in relation to which such a violation occurred, pending final adjudication. If it is ultimately determined that a violation has occurred and that the official action might not otherwise have been taken or approved, the court may set the official action aside as void. The official actions covered by this ~~subsection~~ *subdivision* include, but are not limited to orders, permits, resolutions and contracts, but do not include the enactment of any state legislation. In considering the granting of preliminary or permanent relief under this ~~subsection~~ *subdivision*, the court shall accord due weight to any injury that may be suffered by innocent persons relying on the official action.

SEC. 21. Section 91004 of the Government Code is amended to read:

91004. ~~Any~~ *Unless specifically provided otherwise in this title, any* person who intentionally or negligently violates any of the reporting requirements of this ~~act~~ *title* shall be liable in a civil action brought by the civil prosecutor or by a ~~person residing~~ *registered voter* within the jurisdiction for an amount not more than *three times* the amount or value not properly reported.

SEC. 22. Section 91005 of the Government Code is amended to read:

91005. (a) ~~Any~~ *Unless specifically provided otherwise in this title, any* person who makes ~~or~~, receives, *or fails to properly disclose or report* a contribution, gift, or expenditure in violation of ~~Section 84300, 84304, 86202, 86203, or 86204~~ *this title* is liable in a civil action brought by the civil prosecutor or by a ~~person residing~~ *registered voter* within the jurisdiction for an amount up to five hundred dollars ($500) or three times the amount of the unlawful contribution, gift ~~or~~, expenditure, *or failure to disclose or report,* whichever is greater.

(b) Any designated employee or public official specified in Section 87200 ~~, other than an elected state officer,~~ who realizes an economic benefit as a result of a violation of Section 87100 or of a disqualification provision of a Conflict of Interest Code is liable in a civil action brought by the civil prosecutor or by a ~~person residing~~ *registered voter* within the jurisdiction for an amount up to three times the value of the benefit.

SEC. 23. Section 91005.5 of the Government Code is amended to read:

91005.5. Any person who violates any provision of this title ~~, except Sections 84305, 84307, and 89001~~, for which no specific civil penalty is provided, shall be liable in a civil action brought by the commission ~~or the~~, district attorney, *or a registered voter* pursuant to subdivision (b) of Section 91001, or the elected city attorney pursuant to Section 91001.5, for an amount up to two thousand dollars ($2,000), *to be distributed pursuant to Section 91009*.

No civil action alleging a violation of this title may be filed against a person pursuant to this section if the criminal prosecutor is maintaining a criminal action against that person pursuant to Section 91000.

The provisions of this section shall be applicable only as to violations occurring after the effective date of this section.

SEC. 24. Section 91006 of the Government Code is amended to read:

91006. *Any person who aids and abets any person who violates any of the requirements of this title shall also be liable under Sections 91004, 91005, and 91005.5.* If two or more persons are responsible for any violation, they shall be jointly and severally liable. *In addition, for any violation of any campaign reporting, contribution, or expenditure requirement, the candidate shall also be liable for the violation unless someone other than the candidate was responsible for the violation and acted without the candidate's, treasurer's, and campaign manager's knowledge or consent, and acted wholly outside the scope of the person's duties and authorization.*

SEC. 25. Section 91007 of the Government Code is amended to read:

91007. (a) Any person, before filing a civil action pursuant to ~~Sections~~ *Section* 91004 ~~and~~, 91005, ~~must first~~ *or 91005.5, may also* file with the civil prosecutor a written request for the civil prosecutor to commence the action. The request shall include a statement of the grounds for believing a cause of action exists. The civil prosecutor shall respond within ~~forty~~ *40* days after receipt of the request, indicating whether he intends to file a civil action. If the civil prosecutor indicates in the affirmative, and files suit within ~~forty~~ *40* days thereafter, *the action shall be consolidated with an action brought by the registered voter and* no other action may be brought unless the ~~action brought by the civil prosecutor is~~ *actions are* dismissed without prejudice as provided ~~for~~ in Section 91008.

(b) Any person filing a complaint, cross-complaint or other initial pleading in a civil action pursuant to Sections 91003, 91004, 91005, or 91005.5 shall, within 10 days of filing the complaint, cross-complaint, or initial pleading, serve on the Fair Political Practices Commission a copy of the complaint, cross-complaint, or initial pleading or a notice containing all of the following:

(1) The full title and number of the case.

(2) The court in which the case is pending.

(3) The name and address of the attorney for the person filing the complaint, cross-complaint, or other initial pleading.

(4) A statement that the case raises issues under the Political Reform Act.

(c) No complaint, cross-complaint, or other initial pleading shall be dismissed for failure to comply with subdivision (b).

(d) No civil action, once filed under Section 91004, 91005, or 91005.5, may be dismissed without leave of court upon a showing of either of the following:

(1) The plaintiff has determined, in good faith, that the matter is without substantial merit or it is otherwise not in the public interest to continue the action, and that the plaintiff has neither received nor agreed to any payment, inducement, consideration, or any act or forbearance by any defendant or his or her agent, other than payment of costs of litigation and reasonable attorney's fees.

(2) The parties have determined to compromise and enter into a settlement of some or all of the disputed claims and the court, after hearing, determines that the settlement is in the public interest. Any settlement or compromise approved by the court shall be deemed to be a finding of violation for purposes of subdivision (c) of Section 91002 and Section 91009.

SEC. 26. Section 91012 of the Government Code is amended to read:

91012. The court ~~may~~ *shall* award to a plaintiff ~~or defendant other than an agency,~~ who prevails in any action authorized by this title his *or her* costs of litigation, including reasonable attorney's fees. ~~On motion of any party, a court shall require a private plaintiff to post a bond in a reasonable amount at any stage of the litigation to guarantee payment of costs.~~ *The court may award to a defendant other than an agency who prevails in any action authorized by this title his or her costs of litigation, including reasonable attorney's fees, only if the court finds, on the record, that the matter was frivolous, or brought in bad faith or for some other improper purpose. The provisions of Section 425.16 of the Code of Civil Procedure shall not apply to any action filed pursuant to Section 91004, 91005, or 91005.5.*

SEC. 27. Section 91015 of the Government Code is repealed.

~~91015. The provisions of this chapter shall not apply to violations of Section 83116.5.~~

MISCELLANEOUS PROVISIONS

SEC. 28. There is hereby appropriated annually from the General Fund the sum of three cents ($0.03) per individual of the voting age population in the state, to be adjusted to reflect changes in the Cost of Living Index in January of each even-numbered year after the operative date of this act, for expenditures to support the operations of the Fair Political Practices Commission in administering and enforcing this title. The Franchise Tax Board shall, as soon as possible after the end of the first calendar year in which Sections 17221 and 24335 of the Revenue and Taxation Code have been in effect, calculate the amount of the increased tax revenues to the state as a result of these sections. From the amount so calculated, the Controller shall, for each fiscal year, transfer to the commission, from the General Fund, the amount necessary to meet the appropriation to the commission set forth above. In any event, regardless of whether the increased revenue from Sections 17221 and 24335 of the Revenue and Taxation Code is sufficient, the Legislature shall provide the appropriation to the commission set forth above. To the extent the Legislature provides budgetary support for local agencies for administration and enforcement of this title, the amount of increased tax revenues to the state as a result of Section 86102 of the Government Code shall also be provided for this purpose. If any provision of this title is challenged successfully in court, any attorney's fees and costs awarded shall be paid from the General Fund and shall not be assessed or otherwise offset against the Fair Political Practices Commission budget. Any savings or revenues derived from this title shall be applied to the Anti-Corruption Act of 1996 Enforcement Fund to pay costs related to the administration and enforcement of the title, with the remainder to be placed in the General Fund for general purposes.

SEC. 29. If any provision of this law, or the application of that provision to any person or circumstances, shall be held invalid, the remainder of this law to the extent that it can be given effect, or the application of that provision to persons or circumstances other than those as to which it was held invalid, shall not be affected thereby, and to this extent the provisions of this law are severable. In addition, if the expenditure limitations of Section 85401 of act shall not be in effect, the contribution limits of Sections 85301, 85302, 85303, and 85 shall remain in effect.

SEC. 30. This law shall become effective November 6, 1996. In the event that this measure and another measure or measures relating to campaign finance reform in this state shall appear on the statewide general election ballot on November 5, 1996, the provisions of these other measures shall be deemed to be in conflict with this measure. In the event that this measure shall receive a greater number of affirmative votes, the provisions of this measure shall prevail in their entirety, and the provisions of the other measure or measures shall be null and void in their entirety. In the event that the other measure or measures shall receive a greater number of affirmative votes, the provisions of this measure shall take effect to the extent permitted by law.

SEC. 31. It is the sense of the people of California that candidates for the United States House of Representatives and the United States Senate seeking to represent the people in the Congress of the United States should comply with the contribution limits and expenditure limits, prescribed herein for candidates for the State Senate and Governor, respectively. The people recognize that the limitations prescribed in this law may not be mandated by the people for candidates for federal office. However, it is the sense of the people that these limitations are necessary to prevent corruption and the appearance thereof and to preserve the fairness and integrity of the electoral process in California. The people, therefore, suggest that candidates for federal office seeking to represent the people in the Congress of the United States comply voluntarily with the limitations prescribed herein until such time as comparable limitations are adopted by the Congress of the United States or through a constitutional amendment.

It is also the sense of the people of California that the broadcast licensees, as public trustees, have a special obligation to present voter information broadcasts. For the privilege of using scarce radio and television frequencies, the broadcasters are public trustees with an obligation to provide at no cost and no profit time for candidates to appear and use the station, whether radio or television, for the presentation of candidates' views for some brief period during prime viewing or listening time in the 30-day period prior to an election. The people of California recognize that the federal government has jurisdiction for such a mandate, and strongly urge the Congress of the United States to require the Federal Communications Commission to enforce these requirements upon broadcasters as a condition of holding a public broadcast license and fulfilling the broadcaster's public service obligation.

Proposition 213: Text of Proposed Law

This initiative measure is submitted to the people in accordance with the provisions of Article II, Section 8 of the Constitution.

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

PROPOSED LAW

SECTION 1. Title

This measure shall be known and may be cited as "The Personal Responsibility Act of 1996."

SECTION 2. Findings and Declaration of Purpose

(a) Insurance costs have skyrocketed for those Californians who have taken responsibility for their actions. Uninsured motorists, drunk drivers, and criminal felons are law breakers, and should not be rewarded for their irresponsibility and law breaking. However, under current laws, uninsured motorists and drunk drivers are able to recover unreasonable damages from law-abiding citizens as a result of drunk driving and other accidents, and criminals have been able to recover damages from law-abiding citizens for injuries suffered during the commission of their crimes.

(b) Californians must change the system that rewards individuals who fail to take essential personal responsibility to prevent them from seeking unreasonable damages or from suing law-abiding citizens.

(c) Therefore, the People of the State of California do hereby enact this measure to restore balance to our justice system by limiting the right to sue of criminals, drunk drivers, and uninsured motorists.

SECTION 3. Civil Justice Reform

Section 3333.3 is added to the Civil Code, to read:

3333.3. In any action for damages based on negligence, a person may not recover any damages if the plaintiff's injuries were in any way proximately caused by the plaintiff's commission of any felony, or immediate flight therefrom, and the plaintiff has been duly convicted of that felony.

Section 3333.4 is added to the Civil Code, to read:

3333.4. (a) Except as provided in subdivision (c), in any action to recover damages arising out of the operation or use of a motor vehicle, a person shall not recover non-economic losses to compensate for pain, suffering, inconvenience, physical impairment, disfigurement, and other nonpecuniary damages if any of the following applies:

(1) The injured person was at the time of the accident operating the vehicle in violatio Section 23152 or 23153 of the Vehicle Code, and was convicted of that offense.

(2) The injured person was the owner of a vehicle involved in the accident and the vehicle was not insured as required by the financial responsibility laws of this state.

(3) The injured person was the operator of a vehicle involved in the accident and the operator can not establish his or her financial responsibility as required by the financial responsibility laws of this state.

(b) Except as provided in subdivision (c), an insurer shall not be liable, directly or indirectly, under a policy of liability or uninsured motorist insurance to indemnify for non-economic losses of a person injured as described in subdivision (a).

(c) In the event a person described in paragraph (2) of subdivision (a) was injured by a motorist who at the time of the accident was operating his or her vehicle in violation of Section 23152 or 23153 of the Vehicle Code, and was convicted of that offense, the injured person shall not be barred from recovering non-economic losses to compensate for pain, suffering, inconvenience, physical impairment, disfigurement, and other nonpecuniary damages.

SECTION 4. Effective Date

This act shall be effective immediately upon its adoption by the voters. Its provisions shall apply to all actions in which the initial trial has not commenced prior to January 1, 1997.

SECTION 5. Severability

If any provision of this measure, or the application to any person or circumstances is held invalid or void, such invalidity or voidness shall not affect other provisions or applications that can be given effect without the invalid or void provision or application, and to this end, all of the provisions of this measure are declared to be severable.

SECTION 6. Conflicting Measures

In the event another measure to be voted on by the voters at the same election as this measure, and which constitutes a comprehensive regulatory scheme, receives more affirmative votes than this measure, the electors intend that any provision or provisions of this measure not in direct and apparent conflict with any provision or provisions of that other measure shall not be deemed to be in conflict therewith, and shall be severed from any other provision or provisions of this measure that are in direct and apparent conflict with the provision or provisions of the other measure. In that event, the provision or provisions not deemed in conflict shall be severed according to Section 5 of this measure upon application to any court of competent jurisdiction.

Proposition 214: Text of Proposed Law

This initiative measure is submitted to the people in accordance with the provisions of Article II, Section 8 of the Constitution.

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

PROPOSED LAW

SECTION 1. Chapter 2.25 (commencing with Section 1399.900) is added to Division 2 of the Health and Safety Code, to read:

CHAPTER 2.25. THE HEALTH CARE PATIENT PROTECTION ACT OF 1996

Article 1. Purpose and Intent

1399.900. (a) This chapter shall be known as the "Health Care Patient Protection Act of 1996." The people of California find and declare all of the following:

(1) No health maintenance organization (HMO) or other health care business should be

able to prevent physicians, nurses, and other health caregivers from informing patients of any information that is relevant to their health care.

(2) Doctors, nurses, and other health caregivers should be able to advocate for patients without fear of retaliation from HMOs and other health care businesses.

(3) Health care businesses should not create conflicts of interest that force doctors and er caregivers to choose between increasing their pay or giving their patients medically appropriate care.

(4) Patients should not be denied the medical care their doctor recommends just because their HMO or health insurer thinks it will cost too much.

(5) HMOs and other health insurers should establish publicly available criteria for authorizing or denying care that are determined by appropriately qualified health professionals.

(6) No HMO or other health insurer should be able to deny a treatment recommended by a patient's physician unless the decision to deny is made by an appropriately qualified health professional who has physically examined the patient.

(7) All doctors and health care professionals who are responsible for determining in any way the medical care that a health plan provides to patients should be subject to the same professional standards and disciplinary procedures as similarly licensed health professionals who provide direct care for patients.

(8) No hospital, nursing home, or other health facility should be allowed to operate unless it maintains minimum levels of safe staffing by doctors, nurses, and other health caregivers.

(9) The quality of health care available to California consumers will suffer if health care becomes a big business that cares more about making money than it cares about taking good care of patients.

(10) It is not fair to consumers when health care executives are paid millions of dollars in salaries and bonuses while consumers are being forced to accept more and more restrictions on their health care coverage.

(11) The premiums paid to health insurers should be spent on the health care services to which patients are entitled, not on big corporate salaries, expensive advertising, and other excessive administrative overhead.

(12) The people of California should not be forced to rely only upon politicians and their political appointees to enforce this chapter. The people themselves should have standing with administrative agencies and the courts to make sure that the provisions, purposes, and intent of this chapter are carried out.

(b) This chapter contains reforms based upon these findings. It is the purpose and intent of each section of this chapter to protect the health, safety, and welfare of the people of California by ensuring the quality of health services provided to consumers and patients and by requiring health care businesses to provide the services to which consumers and patients are entitled in a safe and appropriate manner.

Article 2. Full Disclosure of Medical Information to Patients

1399.901. No health care business shall attempt to prevent in any way a physician, nurse, other licensed or certified caregiver, from disclosing to a patient any information that the egiver determines to be relevant to the patient's health care.

Article 3. Physicians Must Be Able to Advocate for Their Patients

1399.905. (a) No health care business shall discharge, demote, terminate a contract with, deny privileges to, or otherwise sanction, a physician, nurse, or other licensed or certified caregiver, for advocating in private or in public on behalf of patients or for reporting any violation of law to appropriate authorities.

(b) No physician, nurse, or other licensed or certified caregiver, shall be discharged, demoted, have a contract terminated, be denied privileges, or otherwise sanctioned, except for just cause. Examples of just cause include, but are not limited to, proven malpractice, patient endangerment, substance abuse, sexual abuse of patients, or economic necessity.

Article 4. Ban on Financial Conflicts of Interest

1399.910. No health care business shall offer or pay bonuses, incentives, or other financial compensation, directly or indirectly, to any physician, nurse, or other licensed or certified caregiver, for the denial, withholding, or delay, of medically appropriate care to which patients or enrollees are entitled. This section shall not prohibit a health care business from using capitated rates.

Article 5. Written Criteria for the Denial of Care

1399.915. Health insurers shall establish criteria for authorizing or denying payment for care and for assuring quality of care. The criteria shall comply with all of the following:

(a) Be determined by physicians, nurses, or other appropriately licensed health professionals, acting within their existing scope of practice and actively providing direct care to patients.

(b) Use sound clinical principles and processes.

(c) Be updated at least annually.

(d) Be publicly available.

Article 6. Patients Must Be Examined Before Care is Denied

1399.920. In arranging for medical care and in providing direct care to patients, no health care business shall refuse to authorize the health care services to which a patient is entitled and which have been recommended by a patient's physician, or other appropriately licensed health care professional, acting within their existing scope of practice, unless all of the following conditions are met:

(a) The employee or contractor who authorizes the denial on behalf of the health care business has physically examined the patient in a timely manner.

(b) That employee or contractor is an appropriately licensed health care professional with the education, training, and relevant expertise that is appropriate for evaluating the specific nical issues involved in the denial.

(c) Any denial and the reasons for it have been communicated by that employee or contractor in a timely manner in writing to the patient and the physician or other licensed health care professional responsible for the care of the patient.

Article 7. Physicians Determine Medical Care

1399.925. A physician, nurse, or other licensed caregiver, who is an employee or contractor of a health care business and who is responsible for establishing procedures for assuring quality of care, or in any way determining what care will be provided to patients, shall be subject to the same standards and disciplinary procedures as all other physicians, nurses, or other licensed caregivers providing direct patient care in California.

Article 8. Safe Physician and Nursing Levels in Health Facilities

1399.930. (a) All health facilities shall provide minimum safe and adequate staffing of physicians, nurses, and other licensed and certified caregivers.

(b) The Director of Health Services shall periodically update staffing standards designed to assure minimum safe and adequate levels of patient care in facilities licensed by the State Department of Health Services. Those standards shall be based upon all of the following:

(1) The severity of patient illness.

(2) Factors affecting the period and quality of patient recovery.

(3) Any other factor substantially related to the condition and health care needs of patients.

(c) For those health services that are provided by health care service plans licensed by the Department of Corporations and provided in organized medical clinics not licensed by the State Department of Health Services, the Commissioner of Corporations shall periodically update staffing standards designed to assure minimum safe and adequate levels of patient care.

(d) Licensed health facilities shall make available for public inspection reports of the daily staffing patterns utilized by the facility and a written plan for assuring compliance with the staffing standards required by law.

Article 9. Disclosure of Excessive Overhead of Health Insurers

1399.935. (a) Health care insurers shall disclose to all purchasers of health insurance coverage the amount of the total premiums, fees, and other periodic payments received by the insurer spent providing for health care services to its subscribers or enrollees and the amount spent on administrative costs. For the purposes of this chapter, administrative costs are defined to include all of the following:

(1) Marketing and advertising, including sales costs and commissions.

(2) Total compensation, including bonuses, incentives, and stock options for officers and directors of the corporation.

(3) Dividends, shares of profit, or any other compensation received by shareholders, if any, or any other revenue in excess of expenditures for the direct provision of health care.

(4) All other expenses not related to the provision of direct health care services.

(b) If the amount of administrative costs exceeds ten percent (10%) of the total premiums, fees, and other periodic payments received by the insurer, the insurer shall further disclose to all its purchasers of health insurance the specific amounts spent on marketing and advertising, on total compensation, dividends, profits or excess revenues, and on other expenses not related to the provision of direct health care services.

(c) The disclosures required by this section also shall be filed with the appropriate state agency and be made available for public inspection.

Article 10. Protection of Patient Privacy

1399.940. The confidentiality of patients' medical records shall be fully protected as provided by law. No section of this chapter shall be interpreted as changing those protections, except that no health care business shall sell a patient's medical records to any third party without the express written authorization of the patient.

Article 11. Public Disclosure

1399.945. (a) The appropriate agencies shall collect and review any information as is necessary to assure compliance with this chapter.

(b) Each private health care business and its affiliated enterprises with more than 100 employees in the aggregate shall file annually with the responsible agency all of the following:

(1) Data or studies used to determine the quality, scope or staffing of health care services, including modifications in such services.

(2) Financial reports substantially similar to the reports required of nonprofit health care businesses under existing law.

(3) Copies of all state and federal tax and securities reports and filings.

(4) A description of the subject and outcome of all complaints, lawsuits, arbitrations, or other legal proceedings brought against the business or any affiliated enterprise, unless disclosure is prohibited by court order or applicable law.

(c) Any information collected or filed in order to comply with this section shall be available for public inspection.

Article 12. Interpretation

1399.950. (a) This law is written in plain language so that people who are not lawyers can read and understand it. When any question of interpretation arises it is the intent of the people that this chapter shall be interpreted in a manner that is consistent with its findings, purpose, and intent and, to the greatest extent possible, advances and safeguards the rights of patients, enhances the quality of health care services to which consumers are entitled, and furthers the application of the reforms contained in this chapter.

(b) If any provision of this chapter conflicts with any other provision of California statute or legal precedent, this chapter shall prevail.

Article 13. Implementation and Enforcement

1399.955. (a) This chapter shall be administered and enforced by the appropriate state agencies, which shall issue regulations, hold hearings, and take any other administrative actions that are necessary to carry out the purposes and enforce the provisions of this chapter.

(b) Health care consumers shall have standing to intervene in any administrative matter arising from this chapter. Health care consumers also may go directly to court to enforce any provision of this chapter individually or in the public interest, and any successful enforcement of the provisions of this chapter by consumers confers a substantial benefit upon the general public. Conduct in violation of this chapter is wrongful and in violation of public policy.

(c) Any private health care business found by a court in either a private or governmental enforcement action to have engaged in a pattern and practice of deliberate or willful violation of the provisions of this chapter shall for a period of five years be prohibited from

asserting as a defense or otherwise relying on any of the antitrust law exemptions contained in Section 16770 of the Business and Professions Code, Section 1342.6 of the Health and Safety Code, or Section 10133.6 of the Insurance Code, in any civil or criminal action against it for restraint of trade, unfair trading practices, unfair competition or other violations of Part 2 (commencing with Section 16600) of Division 7 of the Business and Professions Code.

(d) The remedies contained in this chapter are in addition and cumulative to any other remedies provided by statute or common law.

Article 14. Severability

1399.960. (a) If any provision, sentence, phrase, word, or group of words in this chapter, or their application to any person or circumstance, is held to be invalid, that invalidity shall not affect other provisions, sentences, phrases, words, groups of words or applications of this chapter. To this end, the provisions, sentences, phrases, words and groups of words in this chapter are severable.

(b) Whenever a provision, sentence, phrase, word, or group of words is held to be in conflict with federal law, that provision, sentence, phrase, word, or group of words shall remain in full force and effect to the maximum extent permitted by federal law.

Article 15. Amendment

1399.965. (a) This chapter may be amended only by the Legislature in ways that further its purposes. Any other change in the provisions of this chapter shall be approved by vote of the people. In any judicial proceeding concerning a legislative amendment to this chapter, the court shall exercise its independent judgment as to whether or not the amendment satisfies the requirements of this chapter.

(b) No amendment shall be deemed to further the purposes of this chapter unless it furthers the purpose of the specific provision of this chapter that is being amended.

Article 16. Definitions

1399.970. The following definitions shall apply to this chapter:

(a) "Affiliated enterprise" means any entity of any form that is wholly owned, controlled, or managed by a health care business, or in which a health care business holds a beneficial interest of at least twenty-five percent (25%) either through ownership of shares or control of memberships.

(b) "Available for public inspection" means available at the facility or agency during regular business hours to any person for inspection or copying, or both, with any charges for the copying limited to the reasonable cost of reproduction and, when applicable, postage.

(c) "Caregiver" or "licensed or certified caregiver" means health personnel licensed or certified under Division 2 (commencing with Section 500) of the Business and Professions Code, including a person licensed under any initiative act referred to therein, health personnel regulated by the State Department of Health Services, and health personnel regulated by the Emergency Medical Services Authority.

(d) "Health care business" means any health facility, organization, or institution of any kind that provides, or arranges for the provision of, health services, regardless of business form and whether or not organized and operating as a profit or nonprofit, tax-exempt enterprise, including all of the following:

(1) Any health facility defined herein.

(2) Any health care service plan as defined in subdivision (f) of Section 1345 of the He and Safety Code.

(3) Any nonprofit hospital service plan as governed by Chapter 11a (commencing with Section 11491) of Part 2 of Division 2 of the Insurance Code.

(4) Any disability insurer providing hospital, medical, or surgical coverage as governed by Section 11012.5 and following of the Insurance Code.

(5) Any provider of emergency ambulance services, limited advanced life support, or advanced life support services.

(6) Any preferred provider organization, independent practice association, or other organized group of health professionals with 50 or more employees in the aggregate contracting for the provision or arrangement of health services.

(e) "Health care consumer" or "patient" means any person who is an actual or potential recipient of health services.

(f) "Health care services" or "health services" means health services of any kind, including, but not limited to, diagnostic tests or procedures, medical treatments, nursing care, mental health, and other health care services as defined in subdivision (b) of Section 1345 of the Health and Safety Code.

(g) "Health facility" means any licensed facility of any kind at which health services are provided, including, but not limited to, those facilities defined in Sections 1250, 1200, 1200.1, and 1204, and home health agencies, as defined in Section 1374.10, regardless of business form, and whether or not organized and operating as a profit or nonprofit, tax-exempt or non-exempt enterprise, and including facilities owned, operated, or controlled, by governmental entities, hospital districts, or other public entities.

(h) "Private health care business" means any health care business as defined herein except governmental entities, including hospital districts and other public entities. "Private health care business" shall include any joint venture, partnership, or any other arrangement or enterprise involving a private entity or person in combination or alliance with a public entity.

(i) "Health insurer" means any of the following:

(1) Any health care service plan as defined in subdivision (f) of Section 1345 of the Health and Safety Code.

(2) Any nonprofit hospital service plan as governed by Chapter 11a (commencing with Section 11491) of Part 2 of Division 2 of the Insurance Code.

(3) Any disability insurer providing hospital, medical, or surgical coverage as governed by Section 11012.5 and following of the Insurance Code.

Proposition 215: Text of Proposed Law

This initiative measure is submitted to the people in accordance with the provisions of Article II, Section 8 of the Constitution.

This initiative measure adds a section to the Health and Safety Code; therefore, new provisions proposed to be added are printed in *italic type* to indicate that they are new.

PROPOSED LAW

SECTION 1. Section 11362.5 is added to the Health and Safety Code, to read:

11362.5. (a) This section shall be known and may be cited as the Compassionate Use Act of 1996.

(b)(1) The people of the State of California hereby find and declare that the purposes of the Compassionate Use Act of 1996 are as follows:

(A) To ensure that seriously ill Californians have the right to obtain and use marijuana for medical purposes where that medical use is deemed appropriate and has been recommended by a physician who has determined that the person's health would benefit from the use of marijuana in the treatment of cancer, anorexia, AIDS, chronic pain, spasticity, glaucoma, arthritis, migraine, or any other illness for which marijuana provides relief.

(B) To ensure that patients and their primary caregivers who obtain and use marijuana for medical purposes upon the recommendation of a physician are not subject to criminal prosecution or sanction.

(C) To encourage the federal and state governments to implement a plan to provide for . safe and affordable distribution of marijuana to all patients in medical need of marijuana.

(2) Nothing in this section shall be construed to supersede legislation prohibiting persons from engaging in conduct that endangers others, nor to condone the diversion of marijuana for nonmedical purposes.

(c) Notwithstanding any other provision of law, no physician in this state shall be punished, or denied any right or privilege, for having recommended marijuana to a patient for medical purposes.

(d) Section 11357, relating to the possession of marijuana, and Section 11358, relating to the cultivation of marijuana, shall not apply to a patient, or to a patient's primary caregiver, who possesses or cultivates marijuana for the personal medical purposes of the patient upon the written or oral recommendation or approval of a physician.

(e) For the purposes of this section, "primary caregiver" means the individual designated by the person exempted under this section who has consistently assumed responsibility for the housing, health, or safety of that person.

SEC. 2. If any provision of this measure or the application thereof to any person or circumstance is held invalid, that invalidity shall not affect other provisions or applications of the measure that can be given effect without the invalid provision or application, and to this end the provisions of this measure are severable.

Proposition 216: Text of Proposed Law

This initiative measure is submitted to the people in accordance with the provisions of Article II, Section 8 of the Constitution.

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

PROPOSED LAW

Division 2.4 (commencing with Section 1796.01) is added to the Health and Safety Code to read:

Division 2.4. The Patient Protection Act

Chapter 1. Purpose and Intent

1796.01. This division shall be known as the "Patient Protection Act." The people of California find and declare all of the following:

(a) No health maintenance organization (HMO) or other health care business should be able to prevent doctors, registered nurses, and other health care professionals from informing patients of any information that is relevant to their health care.

(b) Doctors, registered nurses, and other health care professionals should be able to advocate for patients without fear of retaliation from HMOs and other health care businesses.

(c) Health care businesses should not create conflicts of interest that force doctors to choose between increasing their pay or giving their patients medically appropriate care.

(d) Patients should not be denied the medical care their doctor recommends just because their HMO or health insurer thinks it will cost too much.

(e) HMOs and other health insurers should establish publicly available criteria for authorizing or denying care that are determined by appropriately qualified health professionals.

(f) No HMO or other health insurer should be able to deny a treatment recommended by a patient's physician unless the decision to deny is made by an appropriately qualified health professional who has physically examined the patient.

(g) All doctors and health care professionals who are responsible for determining in any way the medical care that a health plan provides to patients should be subject to the same professional standards and disciplinary procedures as similarly licensed health professionals who provide direct care for patients.

(h) No hospital, nursing home, or other health facility should be allowed to operate unless it maintains minimum levels of safe staffing by doctors, registered nurses, and other health professionals.

(i) The quality of health care available to California consumers will suffer if health becomes a big business that cares more about making money than it cares about taking g care of patients.

(j) It is not fair to consumers when health care executives are paid millions of dollars in salaries and bonuses while consumers are being forced to accept more and more restrictions on their health care coverage.

(k) The premiums paid to health insurers should be spent on health care services for

patients, not on big corporate salaries, expensive advertising, and other excessive administrative overhead.

(l) The people of California should not be forced to rely on politicians and their political appointees to enforce this division. The people themselves should have standing with administrative agencies and the courts to make sure that the provisions, purposes, and intent of this division are carried out.

(m) Health care businesses have a responsibility to provide consumers with a prompt, fair, and understandable means of resolving disputes.

(n) When decisions are made affecting their health care, patients and consumers' interests need to be better represented.

(o) A high quality, safe, and adequately funded public health care system is needed in California to maintain vital emergency and preventive services, to provide a safety net for seniors, and to protect against the threat and taxpayer costs of contagious diseases and other health dangers.

This division contains reforms based upon these findings. It is the purpose and intent of each section of this division to protect the health, safety, and welfare of the people of California by ensuring the quality of health services provided to consumers and patients and by requiring health care businesses to provide the services to which consumers and patients are entitled in a safe and appropriate manner.

Chapter 2. Full Disclosure of Medical Information to Patients

1796.02. No health care business shall attempt to prevent or discourage a physician, nurse, or other licensed or certified caregiver from disclosing to a patient any information that the caregiver determines to be relevant to the patient's health care.

Chapter 3. Doctors and Nurses Must Be Able to Advocate for Their Patients

1796.03. No health care business shall discharge, demote, terminate a contract with, deny privileges to, or otherwise sanction, a physician, nurse, or other licensed or certified caregiver for providing safe, adequate, and appropriate care, for advocating in private or in public on behalf of patients, or for reporting any violation of law to appropriate authorities.

Chapter 4. Ban on Financial Conflicts of Interest

1796.04. No health care business shall offer or pay bonuses, incentives, or other financial compensation directly or indirectly to any physician, nurse, or other licensed or certified caregiver for the denial, withholding, or delay of safe, adequate, and appropriate care to which patients are entitled. This section shall not prohibit a health care business from using capitated rates.

Chapter 5. Written Criteria for the Denial of Care

1796.05. Health care businesses shall establish criteria for denying payment for care and for assuring quality of care. The criteria shall comply with all of the following:

(a) Be determined by physicians, registered nurses, or other appropriately licensed health professionals, acting within their existing scope of practice and actively providing direct care patients.

(b) Use sound clinical principles and processes.

(c) Be updated at least annually.

(d) Be publicly available.

Chapter 6. Patients Must Be Examined Before Care is Denied

1796.06. In arranging for medical care and in providing direct care to patients, no health care business shall refuse to authorize the health care services recommended by a patient's physician, registered nurse, or other appropriately licensed caregiver to which that patient is entitled unless the employee or contractor who authorizes the denial on behalf of the health care business has physically examined the patient in a timely manner, and unless that employee or contractor is an appropriately licensed health care professional with the education, training, and relevant expertise that is appropriate for evaluating the specific clinical issues involved in the denial. Any denial and the reasons for it shall be communicated in a timely manner in writing to the patient and to the caregiver whose recommendation is being denied.

Chapter 7. Doctors and Nurses Determine Medical Care

1796.07. A physician, registered nurse, or other licensed caregiver who is an employee or contractor of a health care business and who is responsible for establishing procedures for assuring quality of care or in any way determining what care will be provided to patients shall be subject to the same standards and disciplinary procedures as all other physicians, registered nurses, or other licensed caregivers providing direct patient care in California.

Chapter 8. Safe Physician and Nursing Levels in Health Facilities

1796.08. (a) All health care facilities shall provide safe and adequate staffing of physicians, registered nurses, and other licensed and certified caregivers. The skill, experience, and preparatory educational levels of those caregivers shall be in conformity with all requirements of professional, licensing, and certification standards adopted by regulatory and accreditation agencies.

(b) The State Department of Health Services shall issue emergency regulations within six months of the effective date of this division establishing standards to determine the numbers and classifications of licensed or certified direct caregivers necessary to ensure safe and adequate staffing at all health care facilities. The standards shall be based upon: (1) the severity of illness of each patient; (2) factors affecting the period and quality of recovery of each patient; and (3) any other factor substantially related to the condition and health care needs of each patient.

(c) All health care facilities shall be required as a condition of a license to file annually with the Department a statement of compliance certifying that the facility is maintaining safe and adequate staffing levels, and has adopted and is maintaining uniform methods for measuring safe staffing levels in accordance with this section.

(d) A written explanation of the current method for applying the standards in determining safe staffing levels, and daily reports of the staffing patterns utilized by the facility, shall be available for public inspection at the facility.

(e) Safe and adequate staffing levels shall be considered by courts as an element of the standard of reasonable care, skill, and diligence ordinarily used by health care facilities generally in the same or similar locality and under similar circumstances.

Chapter 9. Public Disclosure of Financial and Quality Reports

1796.09. All health care businesses and their affiliated enterprises shall file annually with the State Department of Health Services the following information:

(a) All quality health care indicators, criteria, data, or studies used to evaluate, assess, or determine the nature, scope, quality, and staffing of health care services, and for reductions in or modifications of the provision of health care services.

(b) With respect to private health care businesses with more than one hundred and fifty employees in the aggregate, both of the following:

(1) All financial reports and returns required by federal and state tax and securities laws, and statements of any financial interest greater than 5 percent or five thousand dollars ($5,000), whichever is lower, in any other health care business or ancillary health care service supplier.

(2) A description of the subject and outcome of all complaints, lawsuits, arbitrations, or other legal proceedings brought against the business or any affiliated enterprise, unless disclosure is prohibited by court order or applicable law.

(c) The filings required by this section shall also be available for public inspection after filing, and provided at the actual cost of reproduction and postage to the Health Care Consumer Association.

Chapter 10. Protection of Patient Privacy

1796.10. The confidentiality of patients' medical records shall be fully protected as provided by law. No section of this division shall be interpreted as changing those protections, except that no health care business shall sell a patient's medical records to any third parties without the express written authorization of the patient.

Chapter 11. Resolution of Disputes over Quality of Care

1796.11. When there is a dispute between a patient and a private health care business over the quality of care that the consumer has received, and the patient has been harmed in any way, the patient may not be required to give up the right to go directly to court to resolve the dispute unless the consumer has agreed to do so and the agreement for alternative resolution of disputes: (1) is written in a manner understandable by a lay person; (2) is not made a condition of the patient's coverage or entitlement to health care services; (3) provides the patient with at least twenty-one days in which to review the agreement; (4) allows the patient to revoke the agreement for a period of seven days after signing it, during which the agreement is unenforceable; and (5) informs the consumer of the protections provided by this section. Nothing in this section shall be construed to prohibit or limit the health care consumer's right to voluntarily utilize alternative dispute resolution options in accordance with this section.

Chapter 12. Health Care Consumer Association

1796.12. (a) No later than six months after the passage of this division, a consumer-based, not-for-profit, tax-exempt public corporation known as the Health Care Consumer Association (HCCA) shall be established to serve the essential public and governmental purposes of protecting and advocating the interests of health care consumers, including their interest in the quality and delivery of care, and to operate as a necessary element of California's regulation of the provision of health care services in order to ensure through education and advocacy safe and adequate care for the people of California.

(b) The duties of the HCCA shall include evaluating and issuing reports on the quality of health care services provided by health care businesses; advising other state agencies in their adoption of any standards and regulations related to this division, and advocating legislation to protect and promote the interests of health care consumers; and by initiating or intervening by right in any administrative or legal proceeding to implement or enforce this division, on behalf of the public interest. The HCCA shall not sponsor, endorse, or oppose any candidate for any elected office.

(c) The HCCA shall be governed by a board of directors composed of public members, six of whom are appointed by the Governor and confirmed by the Senate for two year terms, and seven public members, elected by the members of the HCCA, who shall serve two year terms, the first election occurring within one year of the establishment of the HCCA. The board shall hire officers and establish procedures governing board elections. No member of the board may vote on any matter in which the member has a conflict of interest, and members may be removed by a vote of the board for malfeasance or inability to fulfill their duties. All meetings of the board shall be open to the public.

(d) Membership in the organization shall be free to any California consumer who wishes to join. The organization shall be funded exclusively by voluntary membership contributions, which shall be kept confidential, grants, or donations. All the monies shall be deposited in the "Health Care Consumer Protection Fund" which shall be maintained as a trust by the State Treasurer. Monies in this fund shall be automatically and continuously appropriated for expenditure by the HCCA's board in the fulfillment of the duties set forth in this section. The Legislature shall make no other appropriation for this section, nor shall it have any right to appropriate the trust funds monies for other purposes.

(e) Every private health care business with more than fifty employees in the aggregate shall enclose a notice in every insurance policy, contract, renewal, bill, or explanation of benefits or services informing health care consumers of the opportunity to become a member of the HCCA and to make a voluntary contribution to the organization. The State Director of Health Services shall review the content of the notice and ensure that it is content-neutral and neither false nor misleading. The HCCA shall proportionately reimburse the health care business for any costs incurred by inclusion of the enclosure.

(f) The HCCA shall file an annual report of its activities and finances with the State Department of Health Services, which shall have the right to reasonable, periodic audits of its records. No law restricting or prescribing a mode of procedure for the exercise of the powers of state bodies or state agencies shall be applicable to the HCCA unless the Legislature expressly so declares pursuant to Section 1796.19.

Chapter 13. Protection of Public Health and Safety Fund

1796.13. (a) A "Public Health and Preventive Services Fund" is hereby created in the State Treasury. Notwithstanding Section 13340 of the Government Code, the monies in the fund are continuously appropriated to the State Department of Health Services for

expenditure, without regard to fiscal years, which shall administer them solely for the purposes of this division.

(b) All monies collected and deposited into the fund shall first be used to pay any costs associated with implementation of this division. Any remaining monies in the fund shall be distributed by the State Department of Health Services and used for purposes of: (1) assisting in the maintenance of essential community public health services, including trauma care, communicable disease control, and preventive services; (2) assuring the maintenance of health services for seniors whose access to safe and adequate care is jeopardized by cuts in Medicare and other benefits; and (3) ensuring adequate access to public health services and facilities, including access by individuals and families who suffer loss of health benefits due to job loss or their employer's decision to curtail or discontinue health benefits.

(c) The Board of Equalization shall assess and collect the following fees for deposit to the fund:

(1) The following quality care and public health fees are imposed on private health care businesses and ancillary health care service suppliers that have one hundred and fifty or more employees in the aggregate:

(A) Community Health Service Disinvestment Fee. An annual fee is imposed for any action involving the reorganization, restructuring, downsizing, or closing of health care facilities in a community undertaken by the private health care business or in concert with any other person or entity, or both, that results in a reduction of health care services for the community. The annual health service disinvestment fee shall be assessed on the basis of the following:

(i) For each inpatient care facility at which a reduction of licensed patient care beds occurs, the fee shall be determined according to the following formula: the bed reduction percentage (divide the number of licensed beds eliminated during the year by the total number of licensed beds at beginning of year), multiplied by the facility gross patient revenue for the year, multiplied by one percent. The disinvestment fee shall be applicable to the elimination of licensed inpatient care beds from health care facilities of any kind, including but not limited to, acute care, sub-acute care, and long-term nursing care facilities.

(ii) The fee determined by subparagraph (A) above shall be assessed for each of five consecutive years beginning with the year in which the elimination of licensed patient care beds occurs. A separate fee shall be assessed in each year in which additional licensed patient care beds are eliminated from any inpatient facility. Any health facility that restores patient-care beds that were eliminated and subject to fees under this section shall be entitled to a proportionate offset of fees based on the number of beds restored.

(B) Fee on Conversion to For Profit Health Care. A conversion fee shall be imposed on each of the following transactions:

(i) Any change in status of a private health care business or ancillary health care service supplier from a California Public Benefit Corporation to any other form of business entity.

(ii) Any sale, lease, conveyance, exchange, transfer, or encumbrance of the assets of a private health care business or ancillary health care service supplier that is a California Public Benefit Corporation to any person or entity that is not a California Public Benefit Corporation which constitutes ten percent or more of the corporation's assets.

(iii) Any sale, lease, conveyance, exchange, transfer, or encumbrance of the assets of health facilities owned by any governmental or public entity including any hospital district to any private person or entity.

(iv) The conversion fee under clauses (i) and (ii) shall be assessed on the resulting entity after a change in status under clause (i) and on the transferee of assets under clause (ii), and shall be in the amount of ten percent of the total value of all assets involved in the transaction and shall constitute a dedication of assets to charitable purposes within the meaning of applicable law. The conversion fee under clause (iii) shall be assessed on the transferee of assets in the amount of one percent of the total value of all assets involved in the transaction.

(C) Excessive Compensation Fee. Every officer, director, executive, management official, employee, agent, or consultant for a private health care business or ancillary health care service supplier who personally, or together with family members, holds stock or securities of any kind in the health care business or supplier, and/or its affiliated enterprises, valued at more than two million dollars ($2,000,000) shall be assessed a fee in the amount of 2.5 percent on the value of any new stock or securities received as compensation for services. This fee shall be assessed in the year the stock or securities are received, or in the year the compensation is otherwise taxable under applicable provisions of the California Revenue and Taxation Code and the United States Internal Revenue Code.

(D) Merger, Acquisition, and Monopolization Fee. A merger, acquisition, and monopolization fee shall be imposed in each of the following transactions:

(i) On the surviving entity in any merger of a private health care business with any other private health care business, or with any person or entity engaging in any business of any kind.

(ii) On the acquiring entity in any acquisition of any health care business by any private health care business, or by any person or entity engaging in any business of any kind.

(iii) On the participating entities in the establishment of any multiprovider network(s) by private health care businesses that jointly market or provide, or both, their health care services to purchasers of health care services with respect to the revenue obtained by each from the network.

(iv) The fee imposed by clauses (i) and (ii) shall be assessed in the amount of one percent of all assets within the State of California involved in the transaction. No private health care business that is required to pay a conversion fee for a transaction subject to subparagraph (B) shall be required to pay a fee under this clause for the same transaction.

(v) The fee imposed by clause (iii) shall be an annual fee assessed for each of five consecutive years in which the multiprovider network operates in the amount of three percent of the gross annual revenue derived from services provided by the network in the State of California.

(2) For purposes of this section, "ancillary health care service supplier" includes, but is not limited to, health facilities, health care businesses, as well as suppliers of pharmaceutical, laboratory, optometry, prosthetic, or orthopedic supplies or services, suppliers of durable medical equipment, and those businesses that supply care or treatment models, staffing methodologies, quality assurance, or measurement systems and methodologies.

(3) This section does not apply to governmental entities, hospital districts, or other public entities. However, this section shall apply to any joint venture, partnership, affiliated entities, or any other arrangement or enterprise involving a private entity or person in combination or alliance, or both, with a public entity to the extent assets are received or revenues are earned and reported to any governmental entity as assets or revenues of the joint venture or private entity. Notwithstanding Sections 213 to 214, inclusive, and Section 23701 of the Revenue and Taxation Code, this section shall apply to all private health care businesses regardless of whether the business was organized and operates as a nonprofit or tax-exempt enterprise. The provision of this section is intended to impose any fee on insurers that is not permitted by Section 28 of Article XIII of the California Constitution. The Board of Equalization shall adopt all necessary regulations to implement this section.

Chapter 14. No Unnecessary Increases in Premiums, Co-Payments, Deductibles or Charges

1796.14. After the effective date of this division, no private health care business shall increase premiums, co-payments, deductibles, or charges for health services unless it first files a statement with the State Department of Health Services that certifies under penalty of perjury that the increases are necessary and that discloses for public inspection the following information: (1) total amounts of additional annual revenue that will result from the increases; (2) a description of the anticipated uses of the revenue; and (3) the amounts of total revenue and total expenses of the health care business for each of the previous three years.

Chapter 15. Definitions

1796.15. The following definitions shall apply to this division:

(a) "Affiliated enterprise" means any entity of any form that is wholly owned, controlled, or managed by a health care business, or in which a health care business holds a beneficial interest of at least twenty-five percent either through ownership of shares or control of memberships.

(b) "Available for public inspection" means available at the facility during regular business hours to any person for inspection or copying, or both, at a charge for the reasonable costs of reproduction.

(c) "Caregiver" or "licensed or certified caregiver" means a person licensed under, or licensed under any initiative act referred to in, Division 2 (commencing with Section 500) of the Business and Professions Code.

(d) "Health care business" means any health facility, organization, or institution of any kind, with more than 25 employees in the aggregate, that provides or arranges for the provision of health services, including any "health facility" as defined herein, any "health care service plan" as defined in Section 1345, any health care insurer or nonprofit hospital service plan as defined in the Insurance Code that issues or administers individual or group insurance policies providing health services, and any medical groups, preferred provider organizations, or independent practice organizations, regardless of business form, and whether or not organized and operating as a profit or nonprofit, tax-exempt, or non-exempt enterprise.

(e) "Health care consumer" or "patient" means any person who is an actual or potential recipient of health services.

(f) "Health care services" or "health services" means health care services of any k including, but not limited to, diagnostic tests or procedures, medical or surgical treatm nursing care, and other health care services as defined in subdivision (b) of Section 1345.

(g) "Health facility" means any facility of any kind at which health services are provided, including, but not limited to, those facilities defined in Sections 1200, 1200.1, 1204, 1250, clinics, and home health agencies as defined in Section 1374.10, regardless of business form, and whether or not organized and operating as a profit or nonprofit, tax-exempt or non-exempt enterprise, and including facilities owned, operated, or controlled by governmental entities, hospital districts, or other public entities.

(h) "Private health care business" means any "health care business" as defined herein except governmental entities, hospital districts, or other public entities. "Private health care business" shall include any joint venture, partnership, or any other arrangement or enterprise involving a private entity or person in combination or alliance, or both, with a public entity.

Chapter 16. Interpretation

1796.16. This division is written in plain language so that people who are not lawyers can read and understand it. When any question of interpretation arises it is the intent of the people that this division shall be interpreted in a manner that is consistent with its purpose, findings, and intent and, to the greatest extent possible, advances and safeguards the rights of patients, enhances the quality of health care services to which consumers and patients are entitled, and furthers the application of the reforms contained in this division. If any provision of this division conflicts with any other provision of statute or legal precedent, this division shall prevail.

Chapter 17. Implementation and Enforcement

1796.17. (a) The provisions of this division shall be administered and enforced by the appropriate state agencies, which shall issue regulations, hold hearings, and take any other administrative actions that are necessary to carry out the purposes and enforce the provisions of this division. Health care consumers shall have standing to intervene in any proceeding arising from this division. Any person may also go directly to court to enforce any provision of this division, individually, or on behalf of the public interest. In any successful action by health care consumers to enforce this division on behalf of the public interest, a substantial benefit will be conferred upon the general public. Conduct in violation of this division is wrongful and in violation of public policy. These remedies are in addition and cumulative to any other remedies provided by statute or common law.

(b) Any private health care business found by a court in either a private or governmental enforcement action to have engaged in a pattern and practice of deliberate or willful violation of this division shall, for a period of five years, be prohibited from asserting as a defense, or otherwise relying on, in any civil or criminal action against it for restraint of trade, unfair trade practices, unfair competition or other violations of Part 2 (commenc with Section 16600) of Division 7 of the Business and Professions Code, any of the anti law exemptions contained in Section 16770 of the Business and Professions Code, Sec 1342.6 of the Health and Safety Code, or Section 10133.6 of the Insurance Code.

Chapter 18. Severability

1796.18. If any provision, sentence, phrase, word, or group of words in this division, or their application to any person or circumstance, is held to be invalid, that invalidity shall not

affect other provisions, sentences, phrases, words, groups of words or applications of this division. To this end, the provisions, sentences, phrases, words, and groups of words in this division are severable.

CHAPTER 19. AMENDMENT

'96.19. No provision of this division may be amended by the Legislature except to .ner the purposes of that provision by a statute passed in each house by roll call vote entered in the journal, two-thirds of the membership concurring, or by a statute that becomes effective only when approved by the electorate. No amendment by the Legislature shall be deemed to further the purposes of this division unless it furthers the purpose of the specific provision of this division that is being amended. In any judicial action with respect to any legislative amendment, the court shall exercise its independent judgment as to whether or not the amendment satisfies the requirements of this section.

Proposition 217: Text of Proposed Law

This initiative measure is submitted to the people in accordance with the provisions of Article II, Section 8 of the Constitution.

This initiative measure amends and adds sections to various codes; therefore, existing provisions proposed to be deleted are printed in ~~strikeout type~~ and new provisions proposed to be added are printed in *italic type* to indicate that they are new.

PROPOSED LAW

Local Control and Fiscal Responsibility Act

Section 1. The people of the State of California do hereby find and declare all of the following:

(a) Local taxpayers have the right to see their property tax dollars controlled locally and spent for the local services they need. But every year since 1992, against the wishes of local government and taxpayers, the state government has taken at least three billion six hundred million dollars ($3,600,000,000) of property taxes from the cities and counties to cover the state's budget deficit.

(b) This property tax shift from local government control to state government has severely damaged the ability of local governments to provide basic local services such as police, sheriffs, fire, parks, libraries, emergency medical services, and child protection.

(c) To replace the funds taken by the state government, ordinary taxpayers have been burdened with increased sales taxes and other taxes and increased fees at the local level even as local services have been cut.

(d) Instead of reversing this tax shift from the state back to local control, the state Legislature gave an eight hundred million dollars ($800,000,000) tax break to the wealthiest 1.2% of Californians by reducing the top income tax brackets in 1996. These wealthiest 1.2% of taxpayers will receive at least four billion dollars ($4,000,000,000) in tax breaks over the next 5 years while local services will suffer and average taxpayers get no relief.

(e) When tax measures which fall on ordinary citizens, such as sales tax increases, were due to end, the state Legislature has continued them or provided for a vote of the people on their continuation. But when income tax rates on only the very wealthiest 1.2% of taxpayers were due to expire, the state Legislature refused to even allow a vote of the people on continuing the top income tax brackets.

'f) Reversing these two actions of the Legislature—the property tax shift and the tax cut he wealthy—will help restore stability to city and county services, will relieve the burden on local taxpayers, and will improve the fiscal and economic condition of the entire state of California.

(g) Thus, the people of the State of California enact the "Local Control and Fiscal Responsibility Act" to provide cities and counties with fiscal relief and restoration in proportion to the revenue loss that each local agency sustains as a result of the continued financing of the state budget at the expense of local government, and to pay for the amount of fiscal relief and restoration as can be financed by continuing those top income tax rates on the wealthiest taxpayers that would otherwise expire in 1996.

(h) It is the intent of the people of the State of California to restore the historical connection of basic local government services to the local property tax. In view of the complexity of both the method by which the Legislature transferred property tax revenues from local agencies and of reversing this transfer by the initiative process, the people hereby call upon the Legislature and Governor to take those actions that are necessary to reverse the property tax shift from cities, counties, and special districts in a manner that maintains and is consistent with the funding and allocation levels resulting from this measure.

Section 2. Chapter 6.6 (commencing with Section 30061) is added to Part 6 of Division 3 of Title 3 of the Government Code, to read:

CHAPTER 6.6. LOCAL FISCAL RELIEF

30061. (a) Upon receipt by a county of an apportionment made pursuant to subdivision (b) of Section 19603, the county treasurer shall deposit that apportionment in a Fiscal Relief and Restoration Fund in the county treasury and shall notify the auditor of the amount of that deposit. For each fiscal year immediately following a fiscal year in which a deposit is made into a county's Fiscal Relief and Restoration Fund pursuant to this section, the auditor shall allocate the amount of the deposit, including any interest accrued thereon, among the local agencies in the county in accordance with each local agency's proportionate share of the total amount of property tax revenue that is required to be shifted from all local agencies in the county for that fiscal year as a result of Sections 97.2 and 97.3 of the Revenue and Taxation Code. For purposes of determining proportionate shares pursuant to the preceding sentence, the auditor shall reduce the shift amount determined for each local agency by the amount of money allocated to that agency pursuant to Section 35 of Article XIII of the California Constitution, and shall also reduce the shift amount determined for all local agencies in the county pursuant to that same constitutional provision. For purposes of this subdivision, "local agency" does not include a redevelopment agency or an enterprise special district, and an "enterprise special district" means a special district that engages in an enterprise activity as identified in the 1989–90 edition of the State Controller's Report on Financial Transactions of Special Districts in California.

'b) It is the intent of the people of the State of California in enacting this section to vide basic fiscal relief to local agencies in proportion to the amounts of property tax revenue that state law diverted from local agencies commencing with the 1992–93 and 1993–94 fiscal years, but reduced by the additional revenue allocated to those agencies pursuant to the sales and use tax currently imposed by Proposition 172, which was approved by statewide voters at the November 2, 1993, special statewide election.

Section 3. Limit on future property tax shifts.

Section 97.42 is added to the Revenue and Taxation Code, to read:

97.42. (a) Notwithstanding any other provision of law, for each fiscal year commencing with the 1996–97 fiscal year, the auditor shall not reduce the proportionate share of total property tax revenues collected in the county that is allocated to local agencies below the corresponding proportionate share for those local agencies for the 1995–96 fiscal year.

(b) It is the intent of the people of the State of California in enacting this section that the amount of fiscal relief provided by the statutory initiative adding this section not be offset by an additional diversion of local property tax revenues by the state. It is further the intent of the people that the amount of fiscal relief provided by this statutory initiative not be offset by any other diversions of local revenue by the state.

Section 4. Continuation of the top income tax brackets.

Section 17041 of the Revenue and Taxation Code is amended to read:

17041. (a) (1) There shall be imposed for each taxable year upon the entire taxable income of every resident of this state, except the head of a household as defined in Section 17042, taxes in the following amounts and at the following rates upon the amount of taxable income:

If the taxable income is:	the tax is:
Not over $3,650	1% of the taxable income
Over $3,650 but not over $8,650	$36.50 plus 2% of the excess over $3,650
Over $8,650 but not over $13,650	$136.50 plus 4% of the excess over $8,650
Over $13,650 but not over $18,950	$336.50 plus 6% of the excess over $13,650
Over $18,950 but not over $23,950	$654.50 plus 8% of the excess over $18,950
Over $23,950	$1,054.50 plus 9.3% of the excess over $23,950

(2) (A) For any taxable year beginning on or after January 1, 1991 ~~, and before January 1, 1996~~ , the income tax brackets and rates set forth in paragraph (1) shall be modified by each of the following:

(i) For that portion of taxable income that is over one hundred thousand dollars ($100,000) but not over two hundred thousand dollars ($200,000), the tax rate is 10 percent of the excess over one hundred thousand dollars ($100,000).

(ii) For that portion of taxable income that is over two hundred thousand dollars ($200,000), the tax rate is 11 percent of the excess over two hundred thousand dollars ($200,000).

(B) The income tax brackets specified in this paragraph shall be recomputed, as otherwise provided in subdivision (h), only for taxable years beginning on and after January 1, 1992.

(b) There shall be imposed for each taxable year upon the entire taxable income of every nonresident or part-year resident which is derived from sources in this state, except the head of a household as defined in Section 17042, a tax which shall be equal to the tax computed under subdivision (a) as if the nonresident or part-year resident were a resident multiplied by the ratio of California adjusted gross income to total adjusted gross income from all sources. For purposes of computing the tax under subdivision (a) and gross income from all sources, the net operating loss deduction provided in Section 172 of the Internal Revenue Code, as modified by Section 17276, shall be computed as if the taxpayer was a resident for all prior years.

(c) (1) There shall be imposed for each taxable year upon the entire taxable income of every resident of this state, when the resident is the head of a household, as defined in Section 17042, taxes in the following amounts and at the following rates upon the amount of taxable income:

If the taxable income is:	the tax is:
Not over $7,300	1% of the taxable income
Over $7,300 but not over $17,300	$73 plus 2% of the excess over $7,300
Over $17,300 but not over $22,300	$273 plus 4% of the excess over $17,300
Over $22,300 but not over $27,600	$473 plus 6% of the excess over $22,300
Over $27,600 but not over $32,600	$791 plus 8% of the excess over $27,600
Over $32,600	$1,191 plus 9.3% of the excess over $32,600

(2) (A) For any taxable year beginning on or after January 1, 1991 ~~, and before January 1, 1996~~ , the income tax brackets and rates set forth in paragraph (1) shall be modified by each of the following:

(i) For that portion of taxable income that is over one hundred thirty-six thousand one hundred fifteen dollars ($136,115) but not over two hundred seventy-two thousand two hundred thirty dollars ($272,230), the tax rate is 10 percent of the excess over one hundred thirty-six thousand one hundred fifteen dollars ($136,115).

(ii) For that portion of taxable income that is over two hundred seventy-two thousand two hundred thirty dollars ($272,230), the tax rate is 11 percent of the excess over two hundred seventy-two thousand two hundred thirty dollars ($272,230).

(B) The income tax brackets specified in this paragraph shall be recomputed, as otherwise provided in subdivision (h), only for taxable years beginning on and after January 1, 1992.

(d) There shall be imposed for each taxable year upon the entire taxable income of every nonresident or part-year resident which is derived from sources within this state when the nonresident or part-year resident is the head of a household, as defined in Section 17042, a tax which shall be equal to the tax computed under subdivision (c) as if the nonresident or part-year resident were a resident multiplied by the ratio of California adjusted gross income to total adjusted gross income from all sources. For purposes of computing the tax under subdivision (c) and gross income from all sources, the net operating loss deduction provided in Section 172 of the Internal Revenue Code, as modified by Section 17276, shall be

computed as if the taxpayer was a resident for all prior years.

(e) There shall be imposed for each taxable year upon the taxable income of every estate, trust, or common trust fund taxes equal to the amount computed under subdivision (a) for an individual having the same amount of taxable income.

(f) The tax imposed by this part is not a surtax.

(g) (1) Section 1 (g) of the Internal Revenue Code, relating to certain unearned income of minor children taxed as if the parent's income, shall apply, except as otherwise provided.

(2) Section 1(g)(7)(B)(ii)(II) of the Internal Revenue Code, relating to income included on parent's return, is modified, for purposes of this part, by substituting "five dollars ($5)" for "seventy-five dollars ($75)" and "1 percent" for "15 percent."

(h) For each taxable year beginning on or after January 1, 1988, the Franchise Tax Board shall recompute the income tax brackets prescribed in subdivisions (a) and (c). That computation shall be made as follows:

(1) The California Department of Industrial Relations shall transmit annually to the Franchise Tax Board the percentage change in the California Consumer Price Index for all items from June of the prior calendar year to June of the current calendar year, no later than August 1 of the current calendar year.

(2) The Franchise Tax Board shall do both of the following:

(A) Compute an inflation adjustment factor by adding 100 percent to the percentage change figure that is furnished pursuant to paragraph (1) and dividing the result by 100.

(B) Multiply the preceding taxable year income tax brackets by the inflation adjustment factor determined in subparagraph (A) and round off the resulting products to the nearest one dollar ($1).

(i) (1) For purposes of this section, the term "California adjusted gross income" includes each of the following:

(A) For any part of the taxable year during which the taxpayer was a resident of this state (as defined by Section 17014), all items of adjusted gross income, regardless of source.

(B) For any part of the taxable year during which the taxpayer was not a resident of this state, only those items of adjusted gross income which were derived from sources within this state, determined in accordance with Chapter 11 (commencing with Section 17951).

(2) For purposes of computing "California adjusted gross income" under paragraph (1), the amount of any net operating loss sustained in any taxable year during any part of which the taxpayer was not a resident of this state shall be limited to the sum of the following:

(A) The amount of the loss attributable to the part of the taxable year in which the taxpayer was a resident.

(B) The amount of the loss which, during the part of the taxable year the taxpayer is not a resident, is attributable to California source income and deductions allowable in arriving at adjusted gross income.

(j) It is the intent of the people of the State of California in enacting the amendments to this section made by the statutory initiative adding this subdivision to continue those marginal income tax rates that affect only the very highest income taxpayers and would otherwise expire in 1996, in order to generate those revenues necessary to provide a basic level of local fiscal relief and maintain the state's ability to fulfill its other obligations. It is the intent of the people of the State of California that any future enactment that alters the rate, base, or burden of the state personal income tax at least maintain the level and proportionate share of revenues derived from the marginal income tax rates provided for by the statutory initiative adding this subdivision.

Section 5. Allocation of revenues from state to local government.

Section 19603 of the Revenue and Taxation Code is amended to read:

19603. ~~The~~ *(a) Except as provided in subdivision (b), the* balance of the moneys in the Personal Income Tax Fund shall, upon order of the Controller, be drawn therefrom for the purpose of making refunds under this part or be transferred to the General Fund undelivered refund warrants shall be redeposited in the Personal Income Tax Fund receipt by the Controller.

(b) (1) (A) Subject to any reduction required by subparagraph (B), on December 1 of each fiscal year, there is hereby deposited in the Local Agency Fiscal Restoration Account, which is hereby created in the General Fund, that additional amount of personal income tax revenue that is collected for the immediately preceding taxable year as a result of the amendments to Section 17041 made by the statutory initiative adding this subdivision, which continue in existence the two highest personal income tax rates.

(B) Notwithstanding any other provision of law, any increase resulting from the statutory initiative adding this subdivision in the amount of state educational funding required by Section 8 of Article XVI of the California Constitution and any implementing statute shall be funded from a reduction in the amount of the deposit otherwise required by subparagraph (A). In no event shall the statutory initiative adding this subdivision result in a level of state educational funding that is less than the level of state education funding that would occur in the absence of that measure.

(2) In each fiscal year, the full amount of revenues that is deposited in the Local Agency Fiscal Restoration Account pursuant to paragraph (1) is hereby appropriated to the Controller for apportionment among all counties in the state. Based upon information provided by the Department of Finance, the Controller shall make an apportionment to each county in accordance with the proportion that the total amount of revenue, required to be shifted for the prior fiscal year from all local agencies in the county as a result of Sections 97.2 and 97.3, bears to the total amount required to be shifted for the prior fiscal year as a result of those same sections for all local agencies in the state. For purposes of determining proportionate shares pursuant to the preceding sentence, the Controller shall reduce the total amount of shift revenue determined for all local agencies of a county by the total amount of revenue allocated in that county pursuant to Section 35 of Article XIII of the California Constitution, and shall also reduce the total amount of shift revenues determined for all local agencies in the state by the total amount of revenue allocated in the state pursuant to that same constitutional provision. Each apportionment received by a county pursuant to this section shall be deposited by the county treasurer as provided in Section 30061 of the Government Code. For purposes of this subdivision, "local agency" has the same meaning as that same term is used in Section 30061 of the Government Code.

(c) It is the intent of the people of the State of California in enacting subdivision (b) to make those personal income tax revenues, derived from the tax rates imposed upon only the very highest income taxpayers, available to relieve local agencies that have been required by state law to assume a portion of the state's funding burden, and thereby allow those agencies to better fund essential public services.

Section 6. The Legislature may amend this measure only by a statute, passed in e house of the Legislature by a two-thirds vote, that is consistent with and furthers the purp of this measure. However, the Legislature may enact a statute to implement subdivision (h) o Section 1 of this measure with the approval of only a majority of each house of the Legislature.

Proposition 218: Text of Proposed Law

This initiative measure is submitted to the people in accordance with the provisions of Article II, Section 8 of the Constitution.

This initiative measure expressly amends the Constitution by adding articles thereto; therefore, new provisions proposed to be added are printed in *italic type* to indicate that they are new.

PROPOSED ADDITION OF ARTICLE XIII C AND ARTICLE XIII D

RIGHT TO VOTE ON TAXES ACT

SECTION 1. TITLE. This act shall be known and may be cited as the "Right to Vote on Taxes Act."

SECTION 2. FINDINGS AND DECLARATIONS. The people of the State of California hereby find and declare that Proposition 13 was intended to provide effective tax relief and to require voter approval of tax increases. However, local governments have subjected taxpayers to excessive tax, assessment, fee and charge increases that not only frustrate the purposes of voter approval for tax increases, but also threaten the economic security of all Californians and the California economy itself. This measure protects taxpayers by limiting the methods by which local governments exact revenue from taxpayers without their consent.

SECTION 3. VOTER APPROVAL FOR LOCAL TAX LEVIES. Article XIII C is added to the California Constitution to read:

ARTICLE XIII C

SECTION 1. Definitions. As used in this article:

(a) "General tax" means any tax imposed for general governmental purposes.

(b) "Local government" means any county, city, city and county, including a charter city or county, any special district, or any other local or regional governmental entity.

(c) "Special district" means an agency of the state, formed pursuant to general law or a special act, for the local performance of governmental or proprietary functions with limited geographic boundaries including, but not limited to, school districts and redevelopment agencies.

(d) "Special tax" means any tax imposed for specific purposes, including a tax imposed for specific purposes, which is placed into a general fund.

SEC. 2. Local Government Tax Limitation. Notwithstanding any other provision of this Constitution:

(a) All taxes imposed by any local government shall be deemed to be either general taxes or special taxes. Special purpose districts or agencies, including school districts, shall have no power to levy general taxes.

(b) No local government may impose, extend, or increase any general tax unless and until that tax is submitted to the electorate and approved by a majority vote. A general tax shall not be deemed to have been increased if it is imposed at a rate not higher than the maximum rate so approved. The election required by this subdivision shall be consolidated with a regularly scheduled general election for members of the governing body of the local government, except in cases of emergency declared by a unanimous vote of the governing body.

(c) Any general tax imposed, extended, or increased, without voter approval, by any local government on or after January 1, 1995, and prior to the effective date of this article, shall continue to be imposed only if approved by a majority vote of the voters voting in an election on the issue of the imposition, which election shall be held within two years of the effective date of this article and in compliance with subdivision (b).

(d) No local government may impose, extend, or increase any special tax unless and until that tax is submitted to the electorate and approved by a two-thirds vote. A special tax shall not be deemed to have been increased if it is imposed at a rate not higher than the maximum rate so approved.

SEC. 3. Initiative Power for Local Taxes, Assessments, Fees and Charges. Notwithstanding any other provision of this Constitution, including, but not limited to, Sections 8 and 9 of Article II, the initiative power shall not be prohibited or otherwise limited in matters of reducing or repealing any local tax, assessment, fee or charge. The power of initiative to affect local taxes, assessments, fees and charges shall be applicable to all local governments and neither the Legislature nor any local government charter shall impose a signature requirement higher than that applicable to statewide statutory initiatives.

SECTION 4. ASSESSMENT AND PROPERTY RELATED FEE REFORM. Article XIII D is added to the California Constitution to read:

ARTICLE XIII D

SECTION 1. Application. Notwithstanding any other provision of law, the provisions of this article shall apply to all assessments, fees and charges, whether imposed pursua state statute or local government charter authority. Nothing in this article or Article XI shall be construed to:

(a) Provide any new authority to any agency to impose a tax, assessment, fee, or charge.

(b) Affect existing laws relating to the imposition of fees or charges as a condition of property development.

(c) Affect existing laws relating to the imposition of timber yield taxes.

SEC. 2. Definitions. As used in this article:

(a) "Agency" means any local government as defined in subdivision (b) of Section 1 of Article XIII C.

(b) "Assessment" means any levy or charge upon real property by an agency for a special benefit conferred upon the real property. "Assessment" includes, but is not limited to, "special assessment," "benefit assessment," "maintenance assessment" and "special assessment tax."

(c) "Capital cost" means the cost of acquisition, installation, construction, reconstruction, or replacement of a permanent public improvement by an agency.

(d) "District" means an area determined by an agency to contain all parcels which will receive a special benefit from a proposed public improvement or property-related service.

(e) "Fee" or "charge" means any levy other than an ad valorem tax, a special tax, or an assessment, imposed by an agency upon a parcel or upon a person as an incident of property ownership, including a user fee or charge for a property related service.

(f) "Maintenance and operation expenses" means the cost of rent, repair, replacement, rehabilitation, fuel, power, electrical current, care, and supervision necessary to properly operate and maintain a permanent public improvement.

(g) "Property ownership" shall be deemed to include tenancies of real property where tenants are directly liable to pay the assessment, fee, or charge in question.

(h) "Property-related service" means a public service having a direct relationship to property ownership.

(i) "Special benefit" means a particular and distinct benefit over and above general benefits conferred on real property located in the district or to the public at large. General enhancement of property value does not constitute "special benefit."

SEC. 3. Property Taxes, Assessments, Fees and Charges Limited. (a) No tax, assessment, fee, or charge shall be assessed by any agency upon any parcel of property or upon any person as an incident of property ownership except:

(1) The ad valorem property tax imposed pursuant to Article XIII and Article XIII A.

(2) Any special tax receiving a two-thirds vote pursuant to Section 4 of Article XIII A.

(3) Assessments as provided by this article.

(4) Fees or charges for property related services as provided by this article.

(b) For purposes of this article, fees for the provision of electrical or gas service shall not be deemed charges or fees imposed as an incident of property ownership.

SEC. 4. Procedures and Requirements for All Assessments. (a) An agency which proposes to levy an assessment shall identify all parcels which will have a special benefit conferred upon them and upon which an assessment will be imposed. The proportionate special benefit derived by each identified parcel shall be determined in relationship to the entirety of the capital cost of a public improvement, the maintenance and operation expenses of a public improvement, or the cost of the property related service being provided. No assessment shall be imposed on any parcel which exceeds the reasonable cost of the proportional special benefit conferred on that parcel. Only special benefits are assessable, and an agency shall separate the general benefits from the special benefits conferred on a parcel. Parcels within a district that are owned or used by any agency, the State of California or United States shall not be exempt from assessment unless the agency can demonstrate by clear and convincing evidence that those publicly owned parcels in fact receive no special benefit.

(b) All assessments shall be supported by a detailed engineer's report prepared by a registered professional engineer certified by the State of California.

(c) The amount of the proposed assessment for each identified parcel shall be calculated and the record owner of each parcel shall be given written notice by mail of the proposed assessment, the total amount thereof chargeable to the entire district, the amount chargeable to the owner's particular parcel, the duration of the payments, the reason for the assessment and the basis upon which the amount of the proposed assessment was calculated, together with the date, time, and location of a public hearing on the proposed assessment. Each notice shall also include, in a conspicuous place thereon, a summary of the procedures applicable to the completion, return, and tabulation of the ballots required pursuant to subdivision (d), including a disclosure statement that the existence of a majority protest, as defined in subdivision (e), will result in the assessment not being imposed.

(d) Each notice mailed to owners of identified parcels within the district pursuant to subdivision (c) shall contain a ballot which includes the agency's address for receipt of the ballot once completed by any owner receiving the notice whereby the owner may indicate his or her name, reasonable identification of the parcel, and his or her support or opposition to the proposed assessment.

(e) The agency shall conduct a public hearing upon the proposed assessment not less than 45 days after mailing the notice of the proposed assessment to record owners of each identified parcel. At the public hearing, the agency shall consider all protests against the proposed assessment and tabulate the ballots. The agency shall not impose an assessment if there is a majority protest. A majority protest exists if, upon the conclusion of the hearing, ballots submitted in opposition to the assessment exceed the ballots submitted in favor of the assessment. In tabulating the ballots, the ballots shall be weighted according to the proportional financial obligation of the affected property.

(f) In any legal action contesting the validity of any assessment, the burden shall be on the agency to demonstrate that the property or properties in question receive a special benefit over and above the benefits conferred on the public at large and that the amount of any contested assessment is proportional to, and no greater than, the benefits conferred on the property or properties in question.

(g) Because only special benefits are assessable, electors residing within the district who do not own property within the district shall not be deemed under this Constitution to have been deprived of the right to vote for any assessment. If a court determines that the Constitution of the United States or other federal law requires otherwise, the assessment shall not be imposed unless approved by a two-thirds vote of the electorate in the district in addition to being approved by the property owners as required by subdivision (e).

SEC. 5. Effective Date. Pursuant to subdivision (a) of Section 10 of Article II, the provisions of this article shall become effective the day after the election unless otherwise provided. Beginning July 1, 1997, all existing, new, or increased assessments shall comply with this article. Notwithstanding the foregoing, the following assessments existing on the effective date of this article shall be exempt from the procedures and approval process set forth in Section 4:

(a) Any assessment imposed exclusively to finance the capital costs or maintenance and operation expenses for sidewalks, streets, sewers, water, flood control, drainage systems or vector control. Subsequent increases in such assessments shall be subject to the procedures and approval process set forth in Section 4.

(b) Any assessment imposed pursuant to a petition signed by the persons owning all of the parcels subject to the assessment at the time the assessment is initially imposed. Subsequent increases in such assessments shall be subject to the procedures and approval process set forth in Section 4.

(c) Any assessment the proceeds of which are exclusively used to repay bonded indebtedness of which the failure to pay would violate the Contract Impairment Clause of the Constitution of the United States.

(d) Any assessment which previously received majority voter approval from the voters voting in an election on the issue of the assessment. Subsequent increases in those assessments shall be subject to the procedures and approval process set forth in Section 4.

SEC. 6. Property Related Fees and Charges. (a) Procedures for New or Increased Fees and Charges. An agency shall follow the procedures pursuant to this section in imposing or increasing any fee or charge as defined pursuant to this article, including, but not limited to, the following:

(1) The parcels upon which a fee or charge is proposed for imposition shall be identified. The amount of the fee or charge proposed to be imposed upon each parcel shall be calculated. The agency shall provide written notice by mail of the proposed fee or charge to the record owner of each identified parcel upon which the fee or charge is proposed for imposition, the amount of the fee or charge proposed to be imposed upon each, the basis upon which the amount of the proposed fee or charge was calculated, the reason for the fee or charge, together with the date, time, and location of a public hearing on the proposed fee or charge.

(2) The agency shall conduct a public hearing upon the proposed fee or charge not less than 45 days after mailing the notice of the proposed fee or charge to the record owners of each identified parcel upon which the fee or charge is proposed for imposition. At the public hearing, the agency shall consider all protests against the proposed fee or charge. If written protests against the proposed fee or charge are presented by a majority of owners of the identified parcels, the agency shall not impose the fee or charge.

(b) Requirements for Existing, New or Increased Fees and Charges. A fee or charge shall not be extended, imposed, or increased by any agency unless it meets all of the following requirements:

(1) Revenues derived from the fee or charge shall not exceed the funds required to provide the property related service.

(2) Revenues derived from the fee or charge shall not be used for any purpose other than that for which the fee or charge was imposed.

(3) The amount of a fee or charge imposed upon any parcel or person as an incident of property ownership shall not exceed the proportional cost of the service attributable to the parcel.

(4) No fee or charge may be imposed for a service unless that service is actually used by, or immediately available to, the owner of the property in question. Fees or charges based on potential or future use of a service are not permitted. Standby charges, whether characterized as charges or assessments, shall be classified as assessments and shall not be imposed without compliance with Section 4.

(5) No fee or charge may be imposed for general governmental services including, but not limited to, police, fire, ambulance or library services, where the service is available to the public at large in substantially the same manner as it is to property owners.

Reliance by an agency on any parcel map, including, but not limited to, an assessor's parcel map, may be considered a significant factor in determining whether a fee or charge is imposed as an incident of property ownership for purposes of this article. In any legal action contesting the validity of a fee or charge, the burden shall be on the agency to demonstrate compliance with this article.

(c) Voter Approval for New or Increased Fees and Charges. Except for fees or charges for sewer, water, and refuse collection services, no property related fee or charge shall be imposed or increased unless and until that fee or charge is submitted and approved by a majority vote of the property owners of the property subject to the fee or charge or, at the option of the agency, by a two-thirds vote of the electorate residing in the affected area. The election shall be conducted not less than 45 days after the public hearing. An agency may adopt procedures similar to those for increases in assessments in the conduct of elections under this subdivision.

(d) Beginning July 1, 1997, all fees or charges shall comply with this section.

SECTION 5. LIBERAL CONSTRUCTION. The provisions of this act shall be liberally construed to effectuate its purposes of limiting local government revenue and enhancing taxpayer consent.

SECTION 6. SEVERABILITY. If any provision of this act, or part thereof, is for any reason held to be invalid or unconstitutional, the remaining sections shall not be affected, but shall remain in full force and effect, and to this end the provisions of this act are severable.

Political Party Statements of Purpose

Republican Party

If you have ever wanted to lower taxes so you can keep more of what you earn, you should vote Republican. If you have ever thought that career criminals should be taken off our streets and locked away forever, you should vote Republican. If you have ever thought that we must put an end to illegal immigration once and for all, you should vote Republican.

The California Republican Party will fight for:

- *Tougher penalties for career criminals.* We will fight the liberals who killed the "Three Strikes and You're Out" law.
- *An end to runaway illegal immigration.* Help the Republican Party fight to stop the enormous burden illegal immigration puts on California's economy, schools, and hospitals.
- *A balanced federal budget.* It's high-time the bloated federal government lived within its means. American families have to balance their budgets—why shouldn't the government?
- *A middle-class tax cut.* Americans deserve to keep more of what they earn. The Republican Party is committed to cutting taxes for America's middle class.
- *A truly colorblind society* by working to end special preferences and quotas based upon race. All Americans must be judged on personal merit—not upon arbitrary quotas.

JOHN S. HERRINGTON, *Chairman*
California Republican Party
1903 West Magnolia Boulevard
Burbank, CA 91506
(818) 841-5210
Web Site: http://www.greenlake.com/cagop/

Natural Law Party

The Natural Law Party is America's fastest growing political party—on target to make history as the first third party ever to run 1,000 candidates on the ballot in all 50 states.

The Natural Law Party stands for prevention-oriented government, conflict-free politics, and proven solutions designed to bring national life into harmony with natural law, including:

- Cutting taxes deeply and responsibly through cost-effective solutions to America's problems, rather than by eliminating essential services
- Natural health care programs to prevent disease, promote health, and cut health care costs by 50%
- Proven educational initiatives and curriculum innovations that develop the inner creative genius of the student and boost educational outcomes
- Effective, field-tested crime prevention and rehabilitation programs that significantly reduce crime, recidivism, and the pervasive stress and tension plaguing society
- Sustainable agriculture practices to increase crop yields and boost profitability without hazardous chemical fertilizers and pesticides
- Renewable energy production and energy conservation to reduce pollution and create national energy self-sufficiency
- Reducing government waste and special-interest control of politics

The application of these proven solutions will save America hundreds of billions of dollars, thus allowing the Natural Law Party to balance the budget and lower taxes simultaneously.

JOHN BLACK, *Party Chair for California*
P.O. Box 50843
Palo Alto, CA 94303
(415) 323-0331 or 1-800-515-1008
E-Mail: garden@batnet.com
Web Site: http://www.natural-law.org

Democratic Party

President Clinton and the Democratic Party are working to revitalize the economy and support American families—by reducing crime, improving public education, protecting our nation's senior citizens, and protecting a woman's right to choose.

Revitalized the economy by

- *Cutting the deficit in half.*
- *Lowering unemployment* to the lowest rate in years.
- *Creating over ten million new jobs,* with over 90% of job growth in the private sector, and ensuring equal opportunity in employment.
- *Providing new tax cuts for 90% of small businesses.*
- *Supporting an increase in the minimum wage.*

Reduced crime by

- *Putting 100,000 more cops on the street.*
- *Banning assault weapons.*
- *Signing the Brady Bill* to require a 5-day waiting period to buy a handgun.
- *Fighting domestic violence* with the Violence Against Women Act.

Improved education by

- *Signing the Goals 2000,* which sets education standards and provides increased education funding for public schools.
- *Increasing Head Start funding,* allowing 130,000 more preschoolers to participate.
- *Supporting school uniform policies* to reduce gang activity.
- *Creating the Direct Student Loan Program,* lowering the cost of college loans.

Protected Senior Citizens by

- *Safeguarding Medicare/Medicaid and Social Security from extreme cuts.*
- *Maintaining tough federal standards on nursing homes.*

Revitalizing the economy, supporting families. Vote Democratic in 1996.

ART TORRES, *Chairman*
The California Democratic Party
911 20th Street
Sacramento, CA 95814
(916) 442-5707
E-Mail: info@ca-dem.org
Web Site: http://www.ca-democratic-party.org

Reform Party

The Reform Party is the newest national political party whose birth was started in California in September of 1995. In just 18 days, the Reform Party qualified for the ballot, registering over 120,000 members statewide, the fastest qualification effort in California history!

The Reform Party is the new political party for the 21st century. We believe that every vote counts and seek to include all citizens in the political process. Supporters of the Reform Party are voters who no longer believe either political party is representing their concerns and that the parties are too indebted to narrow interests to change the course of politics today. Restoring America's confidence in her government, which is at an all time low, is our highest priority.

The Reform Party stands for:

- Setting the highest ethical standards for the White House and Congress
- Balancing the federal budget as a top priority
- Meaningful campaign finance reform
- Term limits on Members of Congress
- Creating a new, fair, paperless tax system that pays our nation's bills
- Developing plans to deal with Medicare, Medicaid, and Social Security
- Restricting abuses of foreign and domestic lobbying

REFORM PARTY OF CALIFORNIA
11677 National Boulevard
Los Angeles, CA 90064
(310) 826-5224

The order of the statements was determined by lot.
Statements were supplied by the political parties and have not been checked for accuracy by any official agency.

American Independent Party

The American Independent Party, California affiliate of the U.S. Taxpayers Party, supports:

- Improved quality of public education as well as encouragement of private and home school alternatives;
- Control of crime; stiff penalties for repeat offenders, with capital punishment where appropriate; putting criminals behind bars, rather than taking away the citizens' right to own firearms;
- Protection of American jobs from the unfair foreign competition of the NAFTA and GATT/WTO agreements;
- Control of immigration, legal and illegal, and denial of all tax funded benefits to illegal aliens;
- A balanced budget now, along with tax relief to encourage private enterprise job creation;
- Laws to protect the sanctity of human life, including the life of the unborn;
- A debt free money system, and a non-interventionist foreign policy.

We oppose proposed revisions in the California Constitution which would limit your right to vote, impair the people's right of initiative, frustrate voter-adopted term limits, make it easier for government to tax and spend, and create non-responsive, bureaucrat dominated regional governments.

We oppose government speculation with Social Security trust funds, and affirmative action programs which substitute racial favoritism for ability.

Support these principles by voting American Independent. End "politics as usual."

MERTON D. SHORT, *State Chairman*
American Independent Party
P. O. Box 180
Durham, CA 95938
(916) 345-4224

Libertarian Party

The Libertarian Party of California believes in economic freedom and personal liberties. You have the right to do whatever you want—as long as you take responsibility for your actions and don't violate the rights of other people. From gun regulations . . . to seatbelt and motorcycle helmet laws . . . to civil asset forfeiture . . . to new regulations of the Internet, the Libertarian Party of California says NO! We need to cut government back—way back. Governments exist to protect our lives, liberty and property from criminals and foreign invaders. Allow Americans to live their lives and help one another in peace and prosperity. There is a Libertarian Party candidate on your ballot. Register and vote Libertarian. For answers to any questions, please call us toll-free at 1-800-637-1776.

GAIL LIGHTFOOT, LPC Chair
P.O. Box 598
Pismo Beach, CA 93448
(805) 481-3434
Fax: (805) 481-9083
E-Mail: LPCChair@aol.com
Web Site: http://www.lp.org/lp/ca/lpc.html

Peace and Freedom Party

The Peace and Freedom Party stands for democracy, ecology, feminism and socialism. We work for a world where cooperation replaces competition; where all people are well fed, clothed and housed; where all women and men have equal status; a world of freedom and peace where every community retains its cultural integrity and lives with others in harmony. Our vision includes:

- Full employment with a shorter work week; $10 minimum wage with indexing.
- Defend affirmative action.
- Abolish NAFTA and GATT.
- Self determination for all nations and peoples.
- Conversion from a military to a peace economy.
- Social ownership and democratic management of industry and natural resources.
- End homelessness; abolish vagrancy laws; provide decent affordable housing for all.
- Quality health care, education and transportation.
- Free birth control; abortion on demand; no forced sterilization.
- Restore and protect clean air, water, land and ecosystems; develop renewable energy.
- End discrimination based on race, sex, sexual orientation, age or disability.
- Democratic elections through proportional representation.
- Defend and extend the Bill of Rights; oppose the phony drug war; legalize marijuana; decriminalize and treat drug use.
- Abolish the death penalty and laws against victimless acts.
- Tax the rich to meet human needs.

Peace and Freedom Party, P.O. Box 2325, Aptos, California 95001. (408) 688-4268.

C. T. WEBER, *Chair*
Peace and Freedom Party
P.O. Box 741270
Los Angeles, CA 90004
(213) PFP-1998
Web Site: http://www.cruzio.com/~pfparty

Green Party

The Green Party is a new party that has arisen in response to the need for a new political vision free of the failed ideologies of both the right and the left.

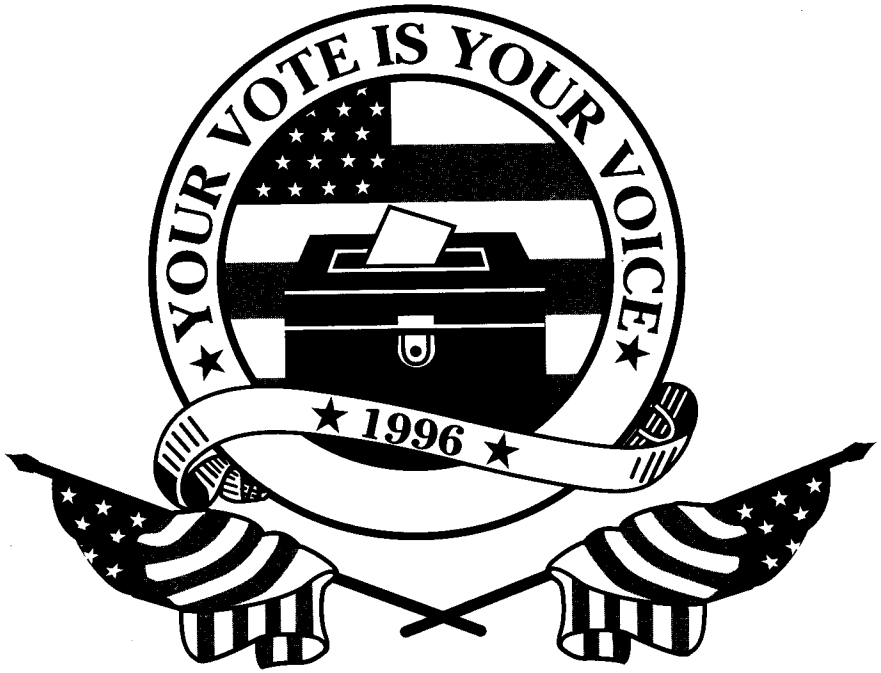
The Green Party promotes an ecological vision which understands that all life on our planet is interconnected; that cooperation is more essential to our well-being than competition; and that all people are connected to and dependent upon one another and upon the natural systems of our world. Politics must come to reflect this understanding, and political structures and processes must be based upon it if humanity is to continue to develop and prosper.

The Green Party was founded upon ten key values: Ecological Wisdom, Grassroots Democracy, Social Justice, Nonviolence, Decentralization, Community-based Economics, Feminism, Respect for Diversity, Personal and Global Responsibility and Sustainable Future Focus.

GREEN PARTY OF CALIFORNIA
1008 10th Street, #482
Sacramento, CA 95814
(916) 448-3437
Web Site: http://www.greens.org

Secretary of State
1500 11th Street
Sacramento, CA 95814

BULK RATE
U.S.
POSTAGE
PAID
Secretary of
State



This artwork was chosen as the winner in the 1996 "You've Got The Power Logo Contest". The artist is David Castillo, Jr. of Coachella Valley High School in Coachella, California.

IMPORTANT NOTICE

The State produces a cassette-recorded version of this ballot pamphlet. These tape recordings are available from most public libraries. If you have a family member or friend who is *visually impaired*, please inform him or her of this service. Cassettes can be obtained by calling your local public library or your county elections official.

In an effort to reduce election costs, the State Legislature has authorized the 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 elections official.

ELECTION MATERIAL