



COUNCIL AGENDA: 04-20-10
ITEM: 2.13

Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Lee Price, MMC
City Clerk

SUBJECT: SEE BELOW

DATE: 04-15-10

**SUBJECT: PROPOSITION 16: IMPOSES NEW TWO-THIRDS VOTER APPROVAL
REQUIREMENT FOR LOCAL PUBLIC ELECTRICITY PROVIDERS**

RECOMMENDATION

As recommended by the Rules and Open Government Committee on April 14, 2010 and outlined in the attached memo previously submitted to the Rules and Open Government Committee, approve an opposition position for Proposition 16: Imposes New Two-Thirds Voter Approval Requirement for Local Public Electricity Providers. Initiative Constitutional Amendment.



Memorandum

TO: RULES AND OPEN GOVERNMENT COMMITTEE FROM: Betsy Shotwell

SUBJECT: SEE BELOW

DATE: April 1, 2010

Approved

Date

4-5-10

SUBJECT: ACCEPT RECOMMENDED CITY POSITION ON THE JUNE 8, 2010 CALIFORNIA PRIMARY ELECTION BALLOT – PROPOSITION 16: IMPOSES NEW TWO-THIRDS VOTER APPROVAL REQUIREMENT FOR LOCAL PUBLIC ELECTRICITY PROVIDERS.

RECOMMENDATION

- Approve the recommended City position to oppose Proposition 16 on the June 8, 2010 California Primary Election ballot. Individual ballot proposition summary and analysis from the Legislative Analyst's Office are attached following the staff analysis and recommendation. The complete Secretary of State's "Official Voter Information Guide," which includes the text of each measure can be accessed at: www.ss.ca.gov.
- The Committee provide a one-week turnaround for City Council review.

Proposition

16. Imposes New Two-Thirds Voter Approval Requirement for Local Public Electricity Providers. Initiative Constitutional Amendment.

Recommended City Position

Oppose

BACKGROUND

The June 8, 2010 California Primary Election ballot contains propositions that cover a range of issues. Staff has selected Proposition 16 for a possible City position as it may have direct impact to City service areas if passed by the voters.

ANALYSIS

The staff analysis, recommendation, and LAO summary and analysis are attached for your consideration.

PUBLIC OUTREACH

- Criteria 1:** Requires Council action on the use of public funds equal to \$1 million or greater. **(Required: Website Posting)**
- Criteria 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. **(Required: E-mail and Website Posting)**
- Criteria 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. **(Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)**

This document will be posted on the City's website for the April 14 Rules and Open Government Committee meeting where Council and the public will have the opportunity to comment.

COORDINATION

This memorandum was coordinated with the Environmental Services Department, Office of Economic Development, the City Attorney's Office and the City's Legislative Representative in Sacramento.



Betsy Shotwell
Director, Intergovernmental Relations

Attachments: Staff analysis and recommendation on Proposition 16
Portions of the California Primary Election June 8, 2010, Voter
Information Guide

For more information contact: Betsy Shotwell, Director of IGR at 408-535-8270.



Proposition 16 – Imposes New Two-Thirds Voter Approval Requirement for Local Public Electricity Providers. Initiative Constitutional Amendment.

Background and analysis

Proposition 16, if passed, would require any local government to obtain a 2/3 majority vote of local voters before a local government would use public funds to start up electricity service, expand electricity service into a new territory, or implement a Community Choice Aggregation effort.

In 2002, California enacted AB 117 (Migden) Chapter 838, which gives cities and counties the authority to arrange to provide electricity within their local jurisdiction through a contract with an electricity provider other than the Independently Owned Utility that would otherwise serve that local area. Referred to as community choice aggregation (CCA), cities and counties can use this as a way to provide customers with energy from renewable sources such as wind and solar – potentially more reliable energy sources with more consistent costs and less environmental impacts. Additionally, the statute gives every rate payer the right to opt out of the CCA if they so choose and provides legislative oversight of CCA's. The California Public Utilities Commission (CPUC) must also review and approve of a CCA proposal.

Pacific Gas and Electric (PG&E) is the sponsor of Proposition 16 and is the primary financial sponsor on the initiative, having contributed \$15.5 million through the end of February 2010. PG&E, which provides power to the northern two-thirds of the State of California, is required to purchase 20 percent of its power from renewable sources by 2010. Currently, PG&E is at 14%, forecasting that they will meet the requirement by 2012 through contracts they now have in place. If communities go ahead with purchasing renewable power through the use of CCA's, PG&E could potentially lose customers and find it more difficult to meet its renewable portfolio standard. PG&E has indicated that it is sponsoring this measure to ensure that voters have a right to choose whether or not a local government goes in the power business. Opponents of Proposition 16 point out that passage of this proposition would effectively cut local governments out of the power business, thus protecting PG&E's market share.

How would the passage of this measure affect San Jose?

If passed, this initiative would greatly impede San Jose's ability to aggregate power customers in order to purchase power from renewable sources. This could compromise San Jose's ability to achieve Goal 3 of the Green Vision to receive 100% of its power from renewable sources. Additionally, CCA's have the potential to help transition the economy to one based on renewable energy, create related jobs and help maintain California's position as a technology leader. This supports the achievement of Green Vision Goal 1 to create 25,000 local clean tech jobs. The existence of new voter approval requirements as a result of this ballot could deter the city from proceeding with any effort to develop community choice aggregation opportunities. Additional costs would occur to secure voter approval. The City is currently focused on energy efficiency and renewable

energy installation activities, but the potential for community choice aggregation is a potential option for meeting Goal 3 of the City's Green Vision.

What is staff's recommended position on Proposition 16?

Staff recommends that the City of San Jose oppose the measure.

Who are the Proposition's supporters and opponents?

Proposition 16 is being sponsored and supported by PG&E. In addition, supporters include the California Chamber of Commerce and the California Taxpayer's Association.

The opposition to Proposition 16 includes:

Local Governments/Public Utilities:

City of Azusa
City of Berkeley
City of Glendale
City of Lodi
City of Rancho Cucamonga
City of Redding
City of Roseville
City and County of San Francisco
City of Sebastopol
Lassen Municipal Utility District
Marin County Board of Supervisors
Marin Energy Authority (representing 9 cities and the County of Marin)
San Francisco Local Agency Formation Commission
Town of Fairfax
Sacramento Municipal Utility District Board of Directors
Burbank Water & Power and City of Burbank
City of Palo Alto
California Municipal Utilities Association Board of Governors
City of Santa Clara
City of Gridley
Northern California Power Agency Commission
Modesto Irrigation District
City of Lompoc
City of Riverside
South San Joaquin Irrigation District

Organizations:

California Association of Realtors
Sierra Club

The League of California Cities
The League of Women Voters

Supporting Organizations Cont'd:

The Utility Reform Network
Local Power Inc.
Local Clean Energy Alliance

AARP
Bay Localize

In addition, on March 18 a coalition of locally-owned public utilities from throughout California filed suit in Sacramento County Superior Court to disqualify Proposition 16 from the June 8 statewide ballot for being “false and misleading, and for concealing its true nature and purpose from voters.” According to the filer’s press release, among many stated concerns “Proposition 16 would make it virtually impossible for public agencies to provide any energy services to new customers because it would require supermajority approval (two-thirds of the voters) instead of the current simple majority votes. If passed, this proposition is also likely to prevent cities that have public power agencies from extending their distribution systems to newly-built neighborhoods – or even to one new customer in the future without going through the expense of seeking authorization from a two-thirds supermajority of voters.” Plaintiffs in the lawsuit include the City and County of San Francisco, the Sacramento Municipal Utility District, several smaller public power generators and the California Municipal Utilities Association.

Coordination of this analysis and recommendation:

This analysis and recommendation was coordinated with the Environmental Services Department, the City Attorney’s Office and the City’s Legislative Representative in Sacramento.

Policy alignment:

This analysis is consistent with the City Council adopted 2010 Legislative Guiding Principles and the adopted guidelines:

Protect Local Control

- Promote a regulatory environment that allows and encourages cities to implement innovative programs to achieve local, state, and national environmental goals.
- Oppose legislation that reduces the authority and/or ability of local government to determine how best to effectively operate local programs, services and activities.

Promote Livability, Sustainable Development, and Environmental Protection

- Provide funding to support alternative energy production such as power and conservation technology.
- Support state and federal incentives that foster energy innovations including energy efficiency, smart grid, clean renewable energy, energy conservation, and storage technological development.

IMPOSES NEW TWO-THIRDS VOTER APPROVAL REQUIREMENT FOR LOCAL PUBLIC ELECTRICITY PROVIDERS. INITIATIVE CONSTITUTIONAL AMENDMENT.

- Requires local governments to obtain the approval of two-thirds of the voters before providing electricity service to new customers or expanding such service to new territories using public funds or bonds.
- Requires same two-thirds vote to provide electricity service through a community choice program using public funds or bonds.
- Requires the vote to be in the jurisdiction of the local government and any new territory to be served.
- Provides exceptions to the voting requirements for a limited number of identified projects.

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

- **Unknown net impact on state and local government costs and revenues due to uncertainty as to the measure's effects on public electricity providers and on electricity rates. These effects are unlikely to be significant in the short run.**

ANALYSIS BY THE LEGISLATIVE ANALYST**BACKGROUND****Provision of Electricity Service in California**

California Electricity Providers. Californians generally receive their electricity service from one of three types of providers: investor-owned utilities (IOUs), local publicly owned electric utilities, or electric service providers (ESPs). These provide 68 percent, 24 percent, and 8 percent, respectively, of retail electricity service in the state.

Investor-Owned Utilities. The IOUs are owned by private investors and provide electricity service for profit. The three largest electricity IOUs in the state are Pacific Gas and Electric (PG&E), Southern California Edison, and San Diego Gas and Electric. Each IOU has a unique, defined geographic service area and is required by law to serve customers in that area. The California Public Utilities Commission (CPUC) regulates the rates charged by IOUs and how they provide electricity service to their customers.

Publicly Owned Utilities. Publicly owned electric utilities are public entities that provide electricity service to residents and businesses in their local area. While not regulated by CPUC, publicly owned electric utilities are governed by locally elected boards which set their own terms of service, including the rates charged to their customers. Electricity service is currently provided by local governments through several different governmental structures authorized under state law, including:

- Utility departments of cities, such as the Los Angeles Department of Water and Power.
- Municipal utility districts, such as the Sacramento Municipal Utility District (SMUD).
- Public utility districts, such as the Truckee Donner Public Utility District.
- Irrigation districts, such as the Imperial Irrigation District.

Electric Service Providers. The ESPs provide electricity to customers who have chosen not to receive electricity from the IOU or publicly owned utility that would otherwise serve their geographic area. Under this approach, an electricity customer enters into what is termed a “direct access” contract with an ESP that delivers electricity to the customer through the local utility’s transmission and distribution system.

The Creation and Expansion of Publicly Provided Electricity Services

Community Choice Aggregation. In addition to the ESP arrangements discussed above, state law allows a city or a county, or a combination of the two, to arrange to provide electricity within their jurisdiction through a contract with an electricity provider other than the IOU that would otherwise serve that local area. This is referred to as “community choice aggregation.” Although only one community choice aggregator (CCA) currently exists to provide electricity in California, several communities are exploring this option. A CCA could get its electricity from an ESP, using the transmission and distribution system of the IOU serving that local area. Electricity customers within that area would automatically get their electricity from the CCA unless they elected to continue to receive service from the IOU.

Proposals to Create and Expand Public Electricity Providers. In recent years, a limited number of local governments in the state have explored the idea of creating new public providers of electricity or expanding publicly owned utilities into new territory currently served by an IOU. For example, the City and County of San Francisco has considered creating a CCA that would include territory currently served by PG&E. As another example, Yolo County explored having SMUD provide electricity service to territory within the county currently served by PG&E. In some cases, these proposals have been put before the voters for their approval, under provisions of state law discussed below.

Voter Approval Requirements for Publicly Owned Electricity Providers. As noted above, publicly owned utilities can be organized under several different types of government structures. Each type of local government entity that is authorized to provide electricity service, and that is considering either the start-up of electricity service or the expansion of existing service beyond its current service area, is subject to certain state requirements.

Various statutes specify whether voter approval is required for the *start-up* of electricity service by authorized local government entities. Under state law, if a local government intends to *expand* its electricity service into a new territory, that new area must be annexed and, in certain cases, a majority of the voters in the area proposed for annexation must approve the expansion. In such cases, however, no vote of the public is generally required within the existing service territory of the local governmental entity that is proposing the expansion. (In some cases, a local commission requires such a vote as a condition of approving the annexation.) In contrast, local agency action to *create and begin implementation of a CCA* may be undertaken upon a vote of the local agency governing board and does not require local voter approval.

PROPOSAL

The measure places new voter approval requirements on local governments before they can use “public funds”—defined broadly in the measure to include tax revenues, various forms of debt, and ratepayer funds—to start up electricity service, expand electricity service into a new territory, or implement a CCA.

- First, before an authorized local government entity can start up electricity service, it must receive approval by two-thirds of the voters in the area proposed to be served.
- Second, before an existing publicly owned utility can expand its electric delivery service

into a new territory, it must receive approval by two-thirds of the voters in the area currently served by the utility and two-thirds of the voters in the new area proposed to be served.

- Third, the measure requires two-thirds voter approval for a local government to implement a CCA.

The measure provides three exemptions to local governments from these voter approval requirements:

- If the use of public funds has been previously approved by the voters both within the existing local jurisdiction and the territory proposed for expansion.
- If the public funds would be used solely to purchase, provide, or supply specified types of electricity from renewable sources, such as wind or solar power.
- If the public funds would be used only to provide electric delivery service for the local government's own use.

FISCAL EFFECTS

Local Administrative Costs for Elections.

Because this measure requires voter approval for specified local government actions that can currently be accomplished without such votes, it would result in additional elections costs. These costs would primarily be related to preparing and mailing election-related materials. In most cases, the balloting could be consolidated with already scheduled elections. As a result, the increased election-related costs due to this measure would probably be minor.

Potential Impact on State and Local Government Costs and Revenues.

This measure could affect local government costs and revenues due to its potential effects on the operation of publicly owned utilities and CCAs. It could also affect the finances of state and local government agencies in California because of its potential impact on electricity rates. These effects would largely depend upon future actions of voters and local governments. We discuss these potential effects in more detail below.

First, the new public voter approval requirements for the start-up or expansion of publicly owned utilities or the implementation of CCAs could result in public disapproval of such changes. Also, the existence of these new voter approval requirements could deter some local government agencies from proceeding with such plans. To the extent that this occurred, these local government agencies would be somewhat smaller in size and have fewer customers than would otherwise be the case. As a result, they would have lower total revenues and costs.

Second, the enactment of this measure could also affect the finances of state and local government agencies in California due to its potential impact on electricity rates. As noted above, some local government agencies might not start up or expand a publicly owned utility into a new territory or implement a CCA as a result of the measure's new voter approval requirements. In this event, the rates paid by electricity customers in that and neighboring jurisdictions could be higher or lower than would otherwise have been the case. For example, if this measure prevented

PROP 16 IMPOSES NEW TWO-THIRDS VOTER APPROVAL REQUIREMENT FOR LOCAL PUBLIC ELECTRICITY PROVIDERS. INITIATIVE CONSTITUTIONAL AMENDMENT.

ANALYSIS BY THE LEGISLATIVE ANALYST

CONTINUED

the expansion of publicly provided electrical service that depended upon the construction of new energy infrastructure, rates might be held lower than might otherwise occur. On the other hand, if this measure lessened the competitive pressures on private electricity providers by reducing the opportunities for expansion of publicly provided electrical service, the rates charged to electricity customers might eventually be higher than otherwise. These impacts could affect state and local government costs, since many public agencies are themselves large consumers of electricity. To the extent that changes in electricity

rates affect business profits, sales, and taxable income, these factors could also affect state and local tax revenues.

In the short run, the net fiscal effect of all of these factors on the finances of state and local government agencies is unlikely to be significant on a statewide basis. This is due to the relatively limited number of local government agencies considering the start-up or expansion of electricity services into new territory. In the long run, the net fiscal effect of the measure is unknown and would depend on future actions of local governments and voters.

PROP 16 IMPOSES NEW TWO-THIRDS VOTER APPROVAL REQUIREMENT FOR LOCAL PUBLIC ELECTRICITY PROVIDERS. INITIATIVE CONSTITUTIONAL AMENDMENT.

★ ARGUMENT IN FAVOR OF PROPOSITION 16 ★

Vote YES on Proposition 16, the Taxpayers Right to Vote Act.

Proposition 16, the Taxpayers Right to Vote Act, does one simple thing: It requires voter approval before local governments can spend public money or incur public debt to get into the electricity business. And like most local special tax and bond decisions in California, two-thirds voter approval will be required.

In tough economic times like these, local voters have every right to have the final say on an issue as important as who provides them with local electric service, and how much it will cost.

Two-thirds voter approval is our best protection against costly and risky government schemes to take over local electric service.

Several local governments in California are trying to take over private electric businesses—often using eminent domain—and are refusing to let local voters have the final say in the decision, because state law doesn't require it. This measure establishes clear voter approval requirements before local governments can spend public money or incur public debt to go into the local electricity business.

These days, with government spending out of control and mounting government debt—the best financial safeguard for taxpayers is to give voters the final say in these decisions.

Supporters of Proposition 16, the Taxpayers Right to Vote Act, including the California Taxpayers' Association, the California Chamber of Commerce and Pacific Gas and Electric Company, believe that the voters should decide. It is our electric service, our public money and, in the end, it is everyone's problem if a government-run electricity business fails. We, the voters, deserve the right to have the final say about how our money is spent.

Vote YES on Proposition 16, the Taxpayers Right to Vote Act.

www.taxpayersrighttovote.com

TERESA CASAZZA, President
California Taxpayers' Association
ALLAN ZAREMBERG, President
California Chamber of Commerce

★ REBUTTAL TO ARGUMENT IN FAVOR OF PROPOSITION 16 ★

Vote No on Proposition 16 to stop the worst case yet of a big special interest—this time it's PG&E, the giant, for-profit private utility—misusing the initiative process.

Don't let PG&E fool you. Proposition 16 doesn't touch your taxes one way or the other. It's all about PG&E maintaining its monopoly and eliminating its competition. That could mean higher electric bills and poorer service for all Californians—regardless of where you live.

PG&E is making up a threat that doesn't exist to distract you. What's really bothering PG&E is many communities are now choosing to purchase renewable energy at wholesale prices. We believe that residents should be allowed to have the choice of buying electricity at lower cost without requiring a 2/3 supermajority vote. But that choice is what PG&E designed Proposition 16 to stop.

So when you see TV ads for Proposition 16, remember that most of the money for each one came from people's utility bills. The Utility Reform Network says, "It's just wrong for

PG&E to take money from families, and then spend it on a political campaign to benefit itself." Especially considering that PG&E recently paid big bonuses to its executives after going bankrupt—just like Wall Street.

The League of Women Voters of California urges you to Vote NO, joining AARP, every newspaper that's reviewed it, and groups representing California's consumers, taxpayers, environmentalists and farmers. Vote NO to give local, nonprofit utilities the chance to compete for your service—with low-cost, renewable energy.

MICHAEL BOCCADORO, Executive Director
Agricultural Energy Consumers Association
LENNY GOLDBERG, Executive Director
California Tax Reform Association
IANIS R. HIROHAMA, President
League of Women Voters of California

PROP 16 IMPOSES NEW TWO-THIRDS VOTER APPROVAL REQUIREMENT FOR LOCAL PUBLIC ELECTRICITY PROVIDERS. INITIATIVE CONSTITUTIONAL AMENDMENT.

★ ARGUMENT AGAINST PROPOSITION 16 ★

Proposition 16 does two things:

First, it drastically limits your choices on who provides you with electricity.

Second, it makes it easier for the for-profit utilities in California to raise your electricity rates.

It's cleverly written, because the backers of Proposition 16 want to fool the voters. They say this measure is about protecting taxpayers. But what it really protects is the monopoly enjoyed by a giant, for-profit electric utility.

You should be allowed to have more choices in who provides your electricity, if those choices would give you lower cost and better service. Vote No on Proposition 16.

Most people would agree that if a local nonprofit organization wants to buy green power at wholesale rates, and sell it to communities at an affordable cost, it should be allowed to do so. But Proposition 16 makes it just about impossible.

Severely limiting your choice in the source of your electricity. No lower cost green energy. Fewer choices and higher costs. That's what Proposition 16 does to you.

Who's the *sole* sponsor of Proposition 16?

PG&E, the largest for-profit utility in the state. When this argument was written, PG&E had contributed \$6.5 million to the "yes" campaign and signaled they're prepared to spend tens of millions more. PG&E was the *only* contributor to put this proposition on the ballot.

Why? Again, PG&E wants to protect its monopoly. Proposition 16 isn't about protecting taxpayers—it's about protecting PG&E's for-profit monopoly on electricity.

Just read the ballot title and summary, and you'll see.

As the Fresno Bee put it, "The PG&E ballot measure (Proposition 16) is another example of the initiative process going awry in California, of a powerful special interest seizing the initiative process for its own narrow benefit."

AARP urges No on Proposition 16 because by restricting competition, Proposition 16 could mean higher electricity costs for you. A No vote protects you against the potential for crippling rate hikes.

In fact, PG&E and other for-profit utilities already charge higher rates than municipal, nonprofit utilities. And now they want to increase rates another \$5 billion.

The Consumer Federation of California says VOTE NO because like Wall Street, PG&E paid huge bonuses to its executives, even after it went bankrupt and ratepayers bailed it out. Now PG&E wants to lock-in its monopoly once and for all—so smaller, local nonprofit utilities are not allowed to compete.

Sierra Club says VOTE NO because Proposition 16 requires a 2/3 supermajority vote before communities can purchase clean power and other power at competitive prices. These community choice programs are voluntary and do not raise taxes.

Proposition 16 "is a dagger aimed directly at a movement to enable municipalities to offer renewable green power to their residents in competition with private utilities," said Michael Hiltzik, a columnist for the Los Angeles Times.

Say NO to another wasteful initiative that says one thing but really does something very different. Vote No on Proposition 16 to keep money in your pocket and to protect your utility choices.

JEANNINE ENGLISH, California State President
AARP

ANDY KATZ, Chair
Sierra Club California

RICHARD HOLOBER, Executive Director
Consumer Federation of California

★ REBUTTAL TO ARGUMENT AGAINST PROPOSITION 16 ★

Why are the opponents of Proposition 16 afraid to give taxpayers the right to vote? Voting gives you the ultimate choice on how government spends your money. Opponents of Proposition 16 want to deny you that right.

Opponents of Proposition 16 are not telling the truth. Let's be clear:

- Proposition 16 does NOT affect electric rates.
- Proposition 16 does NOT threaten green power.

Yes on Proposition 16 simply gives taxpayers the right to vote before local governments spend your money or go deeper into debt to get into the retail electricity business.

The last time government thought they knew more about the electricity business than the electric utility companies,

we had the 2001 energy crisis. Rates skyrocketed and we had rolling blackouts. The cost to consumers was devastating and it created chaos throughout California.

Yes on Proposition 16. Voter approval is everyone's best protection against costly and risky local government schemes to get into the retail electricity business.

www.taxpayersrighttovote.com

TERESA CASAZZA, President
California Taxpayers' Association

ALLAN ZAREMBERG, President
California Chamber of Commerce

Franchise Tax Board shall adjust, on or before September 1, the minimum contribution amount specified in subdivision (b) as follows:

(1) The minimum estimated contribution amount for the calendar year shall be an amount equal to the product of the minimum estimated contribution amount for the calendar year multiplied by the inflation factor adjustment as specified in subparagraph (A) of paragraph (2) of subdivision (h) of Section 17041, rounded off to the nearest dollar.

(2) The inflation factor adjustment used for the calendar year shall be based on the figures for the percentage change in the California Consumer Price Index received on or before August 1 of the calendar year pursuant to paragraph (1) of subdivision (h) of Section 17041.

(d) Notwithstanding the repeal of this article, any contribution amounts designated pursuant to this article prior to its repeal shall continue to be transferred and disbursed in accordance with this article as in effect immediately prior to that repeal.

SEC. 6. The provisions of Section 81012 of the Government Code, which allow legislative amendments to the Political Reform Act of 1974, shall apply to all of the provisions of this act that are placed on the June 8, 2010, ballot, except that Section 91157 of the Government Code, and Article 8.6 (commencing with Section 18798) of Chapter 3 of Part 10.2 of Division 2 of the Revenue and Taxation Code, may be amended or repealed by a statute passed in each house of the Legislature, a majority of the membership concurring, and signed by the Governor.

SEC. 8. The section of this act that adds Chapter 12 (commencing with Section 91015) to Title 9 of the Government Code shall be deemed to amend the Political Reform Act of 1974 as amended and all of the provisions of the Political Reform Act of 1974 as amended that do not conflict with Chapter 12 shall apply to the provisions of that chapter.

PROPOSITION 16

This initiative measure is submitted to the people in accordance with the provisions of Article II, Section 8 of the California Constitution.

This initiative measure expressly amends the California Constitution by adding a section thereto; therefore, new provisions proposed to be added are printed in *italic type* to indicate that they are new.

PROPOSED LAW

Section 1. FINDINGS AND DECLARATIONS

The People do find and declare:

(a) This initiative shall be known as "The Taxpayers Right to Vote Act."

(b) California law requires two-thirds voter approval for tax increases for specific purposes.

(c) The politicians in local governments should be held to the same standard before using public funds, borrowing,

issuing bonds guaranteed by ratepayers or taxpayers, or obtaining other debt or financing to start or expand electric delivery service, or to implement a plan to become an aggregate electricity provider.

(d) Local governments often start or expand electric delivery service, or implement a plan to become an aggregate electricity provider, without approval by a vote of the people.

(e) Frequently the start-up, expansion, or implementation plan requires either construction or acquisition of facilities or other services necessary to deliver the electric service, to be paid for with public funds, borrowing, bonds guaranteed by ratepayers or taxpayers, or other debt or financing.

(f) The source of the public funds, borrowing, debt, and bond financing is generally the electricity rates charged to ratepayers as well as surcharges or taxes imposed on taxpayers.

(g) Such use of public funds and many forms of borrowing, debt or financing do not presently require approval by a vote of the people, and where a vote is required, only a majority vote may be required.

Section 2. STATEMENT OF PURPOSE

(a) The purpose of this initiative is to guarantee to ratepayers and taxpayers the right to vote any time a local government seeks to use public funds, public debt, bonds or liability, or taxes or other financing to start or expand electric delivery service to a new territory or new customers, or to implement a plan to become an aggregate electricity provider.

(b) If the start-up or expansion requires the construction or acquisition of facilities or services that will be paid for with public funds, or financed through bonds to be paid for or guaranteed by ratepayers or taxpayers, or to be paid for by other forms of public expenditure, borrowing, liability or debt, then two-thirds of the voters in the territory being served and two-thirds of the voters in the territory to be served, voting at an election, must approve the expenditure, borrowing, liability or debt. Also, if the implementation of a plan to become an aggregate electricity provider requires the use of public funds, or financing through bonds guaranteed by ratepayers or taxpayers, or other forms of public expenditure, borrowing, liability or debt, then two-thirds of the voters in the jurisdiction, voting at an election, must approve the expenditure, borrowing, liability or debt.

Section 3. Section 9.5 is added to Article XI of the California Constitution to read:

SEC. 9.5. (a) *Except as provided in subdivision (h), no local government shall, at any time, incur any bonded or other indebtedness or liability in any manner or use any public funds for the construction or acquisition of facilities, works, goods, commodities, products or services to establish or expand electric delivery service, or to implement a plan to become an aggregate electricity*

provider, without the assent of two-thirds of the voters within the jurisdiction of the local government and two-thirds of the voters within the territory to be served, if any, voting at an election to be held for the purpose of approving the use of any public funds, or incurring any liability, or incurring any bonded or other borrowing or indebtedness.

(b) "Local government" means a municipality or municipal corporation, a municipal utility district, a public utility district, an irrigation district, a city, including a charter city, a county, a city and county, a district, a special district, an agency, or a joint powers authority that includes one or more of these entities.

(c) "Electric delivery service" means (1) transmission of electric power directly to retail end-use customers, (2) distribution of electric power to customers for resale or directly to retail end-use customers, or (3) sale of electric power to retail end-use customers.

(d) "Expand electric delivery service" does not include (1) electric delivery service within the existing jurisdictional boundaries of a local government that is the sole electric delivery service provider within those boundaries, or (2) continuing to provide electric delivery service to customers already receiving electric delivery service from the local government prior to the enactment of this section.

(e) "A plan to become an aggregate electricity provider" means a plan by a local government to provide community choice aggregation services or to replace the authorized local public utility in whole or in part for electric delivery service to any retail electricity customers within its jurisdiction.

(f) "Public funds" means, without limitation, any taxes, funds, cash, income, equity, assets, proceeds of bonds or other financing or borrowing, or rates paid by ratepayers. "Public funds" do not include federal funds.

(g) "Bonded or other indebtedness or liability" means, without limitation, any borrowing, bond, note, guarantee or other indebtedness, liability or obligation, direct or indirect, of any kind, contingent or otherwise, or use of any indebtedness, liability or obligation for reimbursement of any moneys expended from taxes, cash, income, equity, assets, contributions by ratepayers, the treasury of the local government, or other sources.

(h) This section shall not apply to any bonded or other indebtedness or liability or use of public funds that (1) has been approved by the voters within the jurisdiction of the local government and within the territory to be served, if any, prior to the enactment of this section; or (2) is solely for the purpose of purchasing, providing or supplying renewable electricity from biomass, solar thermal, photovoltaic, wind, geothermal, fuel cells using renewable fuels, small hydroelectric generation of 30 megawatts or less, digester gas, municipal solid waste conversion, landfill gas, ocean wave, ocean thermal, or tidal current, or providing electric delivery service for the local government's own end use and not for electric delivery service to others.

Section 4. CONFLICTING MEASURES

A. This initiative is intended to be comprehensive. It is the intent of the people that in the event that this initiative and another initiative relating to the same subject appear on the same statewide election ballot, the provisions of the other initiative or initiatives are deemed to be in conflict with this initiative. In the event this initiative shall receive the greater number of affirmative votes, the provisions of this initiative shall prevail in their entirety, and all provisions of the other initiative or initiatives shall be null and void.

B. If this initiative is approved by voters but superseded by law or by any other conflicting ballot initiative approved by the voters at the same election, and the conflicting law or ballot initiative is later held invalid, this initiative shall be self-executing and given full force of law.

Section 5. SEVERABILITY

The provisions of this initiative are severable. If any provision of this initiative or its application is held to be invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

PROPOSITION 17

This initiative measure is submitted to the people in accordance with the provisions of Section 8 of Article II of the California Constitution.

This initiative measure amends a section of, and adds a section to, the Insurance Code; therefore, existing provisions proposed to be deleted are printed in *strikeout* type and new provisions proposed to be added are printed in *italic type* to indicate that they are new.

PROPOSED LAW

SECTION 1. Title

This measure shall be known as the Continuous Coverage Auto Insurance Discount Act.

SEC. 2. The people of the State of California find and declare that:

(a) Under California law, the Department of Insurance regulates insurance rates and determines what discounts auto insurance companies can give drivers.

(b) However, an inconsistency in California's insurance laws allows insurers to provide a discount for drivers who continue with the same insurer, but prohibits them from offering this discount to new customers. Drivers who maintain insurance coverage are not able to keep a continuous coverage discount if they change insurers.

(c) This measure corrects that inconsistency and ensures that all drivers who continually maintain their automobile insurance are eligible for this discount even if they change their insurance company.

(d) This measure does not change the provisions in current law that require insurers to base their rates primarily on driving safety record, miles driven annually,