



# Memorandum

**TO:** HONORABLE MAYOR AND  
CITY COUNCIL

**FROM:** Lee Price, MMC  
City Clerk

**SUBJECT:** SEE BELOW

**DATE:** 09-29-10

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**SUBJECT: CITY POSITIONS ON THE NOVEMBER 2, 2010 CALIFORNIA  
GENERAL ELECTION BALLOT – PROPOSITIONS 19, 23, AND 26**

**RECOMMENDATION**

As recommended by the Rules and Open Government Committee on September 29, 2010 and outlined in the attached memo previously submitted to the Rules and Open Government Committee, approve the recommended City positions for Propositions on the November 2, 2010 California General Election ballot:

- (a) Adopt an Oppose Position for Proposition 19. Legalizes Marijuana Under California But Not Federal Law, Permits Local Governments To Regulate And Tax Commercial Production, Distribution, And Sale Of Marijuana. Initiative Statute.
- (b) Adopt an Oppose Position for Proposition 23. Suspends Implementation of Air Pollution Control Law (AB 32) Requiring Major Source of Emissions to Report and Reduce Greenhouse Gas emissions that Cause Global Warming Until Unemployment Drops to 5.5 Percent of Less for Full Year. Initiative Statute.
- (c) Adopt an Oppose Position for Proposition 26. Requires that Certain State and Local Fees be Approved by Two-Thirds Vote. Rees Include Those That Address Adverse Impacts on Society or the Environment Caused by the Fee-Payer's Business. Initiative Constitutional.



# Memorandum

**TO:** RULES AND OPEN GOVERNMENT COMMITTEE      **FROM:** Betsy Shotwell

**SUBJECT:** SEE BELOW

**DATE:** September 20, 2010

Approved

Date

9/21/10

**SUBJECT: ACCEPT RECOMMENDED CITY POSITIONS ON THE NOVEMBER 2, 2010 CALIFORNIA GENERAL ELECTION BALLOT – PROPOSITIONS 19, 23, AND 26**

**RECOMMENDATION**

Approve the recommended City positions for Propositions 19, 23 and 26 on the November 2, 2010, California General Election ballot.

On February 23, 2010, the City Council voted to support Proposition 22, which as written: “Prohibits the State from Borrowing or Taking Funds Used for Transportation, Redevelopment, or Local Government Projects and Services. Initiative Constitutional Amendment. Prohibits the state, even during a period of severe financial hardship, from delaying the distribution of tax revenue for transportation, redevelopment, or local government projects and services.”

Individual ballot proposition summaries and analyses from the Legislative Analyst’s Office are attached following the staff analyses and recommendations. 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](http://www.ss.ca.gov).

**Proposition**

**Recommended City Position**

- |  |        |
|--|--------|
| 19. Legalizes Marijuana Under California But Not Federal Law. Permits Local Governments to Regulate and Tax Commercial Production, Distribution, and Sale of Marijuana. Initiative Statute.  | Oppose |
| 23. Suspends Implementation of Air Pollution Control Law (AB 32) Requiring Major Sources of Emissions to Report and Reduce Greenhouse Gas Emissions that Cause Global Warming Until Unemployment Drops to 5.5 Percent or Less for Full Year. Initiative Statute. | Oppose |

**Proposition (cont'd)**

**Recommended City Position**

26. Requires that Certain State and Local Fees be Approved by Two-Thirds Vote. Fees Include Those That Address Adverse Impacts on Society or the Environment Caused by the Fee-Payer's Business. Initiative Constitutional

Oppose

**BACKGROUND**

The November 2, 2010 California General Election ballot contains a number of propositions that cover a range of issues. Staff has selected those propositions for possible City positions that may have direct impact to City service areas.

**ANALYSIS**

The staff analyses, recommendations, and LAO summaries and analyses 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 September 29 Rules and Open Government Committee meeting where Council and the public will have the opportunity to comment.

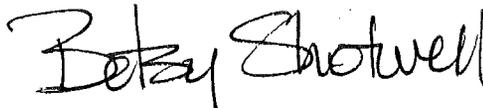
Rules and Open Government Committee  
9-20-10

**Subject: Accept Recommended City Positions on the November 2, 2010 California General Election Ballot – Propositions 19, 23 and 26**

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### COORDINATION

This memorandum was coordinated with the City's Legislative Representative in Sacramento, the City Attorney's Office and the Departments indicated in the attached analyses.



Betsy Shotwell  
Director, Intergovernmental Relations

Attachments: Staff analyses and recommendations on Propositions 19, 23, and 26.  
Portions of the California Presidential General Election November 2, 2010, Voter  
Information Guide

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



**Proposition 19 - Legalizes Marijuana Under California But Not Federal Law. Permits Local Governments to Regulate and Tax Commercial Production, Distribution, and Sale of Marijuana. Initiative Statute.**

***Background and Analysis***

This measure if passed would change state law to allow people 21 years old or older to possess, cultivate, or transport marijuana for personal use. Proposition 19 would permit local governments to regulate and tax commercial production and sale of marijuana to people 21 years old or older and would prohibit people from possessing marijuana on school grounds, using it in public, smoking it while minors are present, or providing it to anyone under 21 years old. Proposition 19 maintains the current prohibitions against driving while impaired. According to the Legislative Analyst's Office, while these changes would be made to state law, the above stated marijuana-related activities would continue to be prohibited under federal law and would still be enforced by federal agencies. In addition to Proposition 19, the voters of San Jose will have an opportunity to vote on Measure U on the ballot "to impose a tax rate of up to 10% of gross receipts on marijuana businesses in San Jose, subject to existing independent financial audits, with all revenue controlled by the City."

***How would the passage of this measure affect San Jose?***

The passage of Proposition 19 would have a number of impacts in the following areas: good government policy setting and local control; revenue generation; public safety; and workplace/employer mandates under the Federal Drug-Free Workplace Act of 1988.

***Good Government Policy Setting and Local Control***

Proposition 19 appears to override local controls in a number of ways. First, there are concerns that charter cities will not be able to ban or fully regulate what will be legalized statewide under Section 3 of Proposition 19. Under the proposed Health and Safety Code Section 11300 in Section 3 of Proposition 19, the measure will legalize personal possession, processing, sharing, and transportation of up to one ounce of marijuana. Also, Section 3 authorizes cultivation on private property by the owner, occupant, resident or guest of cannabis for personal consumption in an area up to 25 square feet per private residence or parcel. This provision has called into question whether a property owner maintains the right to prohibit cultivation on his/her land. This section could interfere the City's recent priority enforcement guidelines regarding the location of medical marijuana dispensaries in San Jose.

Furthermore, while Section 3 in Proposition 19 indicates that local governments may adopt ordinances, regulations, or other acts having the force of law to control, license, regulate, permit or otherwise authorize commercial cultivation, transportation, sale, possession for sale, and consumption of cannabis, the measure doesn't expressly say that

local governments can ban commercial operations. Staff believes that this Section will lead to many more years of litigation and therefore, does not reflect good policy setting.

Proposition 19 will force over 500 local governments (cities and counties) to create their own cannabis-related regulations absent any state standardization or oversight in the packaging, sale, or distribution on marijuana. Requiring local governments to promulgate comprehensive cannabis-related regulations will not only unduly burden local governments, but is also certain to lead to a chaotic and confusing patchwork of local controls.

#### *Revenue Generation*

Proposition 19 will preclude state government from imposing any cannabis specific tax or fee but state sales tax and income taxes have to be paid. Local taxes on cannabis-related activities are authorized in proposed Health and Safety Code Section 11301(a). Proposition 19 allows for local revenue generation and the City Council has already placed Measure U on the November ballot to “impose a tax rate of up to 10% of gross receipts on marijuana businesses in San Jose, subject to existing independent financial audits, with all revenue controlled by the City.”

#### *Public Safety*

Section 3 also creates a new Health and Safety Code Section 11303 which prohibits local law enforcement from attempting to, threatening to, or in fact seizing cannabis that is lawfully cultivated, processed, transported, possesses, possessed for sale, sold or used in compliance with Proposition 19 or any local ordinance, regulation or law adopted pursuant to Proposition 19. This may adversely affect the San Jose Police Department's participation in Federal DEA task force operations.

Section 3 also creates a new Health and Safety Code Section 11304 which states that Proposition 19 shall not be construed to affect, limit or amend any statute that forbids impairment while engaged in dangerous activities such as driving. However, there is no commercial test available for use by law enforcement that will measure when a person is intoxicated with marijuana to the extent that it impairs the person's ability to safely drive a motor vehicle, boat, airplane or other dangerous machinery. There is no breath test nor is there even a blood test that measures marijuana intoxication. Without scientifically proven tests that establish intoxication levels in a manner similar to the existing blood, urine and breath tests for alcohol intoxication that are commercially available to law enforcement, there will be no practical way of enforcing prohibitions against driving under the influence of marijuana.

*Workplace Discipline and Employer Mandates under the Federal Drug-Free Workplace Act of 1988*

Proposition 19 will also make it more difficult for employers to handle employee discipline matters where employees possess or consume marijuana on the job or come to the job having consumed it before coming to work. This will be a tremendous challenge for employers, including the City of San Jose. The proposed Health and Safety Code Section 11304, subdivision (c) states as follows:

- "No person shall be punished, fined, discriminated against, or be denied any right or privilege for lawfully engaging in conduct permitted by this Act or authorized pursuant to Section 11301 of this Act. *Provided however, that the existing right of an employer to address consumption that actually impairs job performance by an employee shall not be affected.*"

Since this provision protects "all conduct permitted by [the] Act," an employer may no longer be able to: screen job applicants for marijuana use; or regulate any employee conduct related to the use, transportation or cultivation of marijuana, unless the employer can prove actual impairment.

Proposition 19 would have the effect of making it more difficult for the City to screen out job applicants or discipline employees for drug use or possession on the job or for participation in the commercial industry that the Proposition will legalize. This will be a potentially dangerous issue with respect to the ability of the police and fire departments to screen and discipline officers and firefighters who may be involved in the commercial industry that Proposition 19 legalizes or who possess or use marijuana as it is legalized in the proposed Health and Safety Code Section 11300 of Proposition 19. City employees, whether public safety workers or not, may be able to argue that the City could not discipline them for on the job use or possession unless the city proves that consumption of cannabis actually impairs job performance.

In this regard it should be noted that the italicized last sentence in Subdivision (c) above appears to overturn the holding by the California Supreme Court in *Ross v. Raging Wire* 42 Cal.4th 920 (2008). The California Supreme Court held that the California Fair Housing and Employment Act (FEHA) does not require employers to accommodate employees who use medical marijuana. In *Raging Wire*, an employee failed a pre-employment drug test because he was taking medical marijuana at home. No proof of actual job performance impairment is needed under the holding of the Court in *Waging Wire* for an employer to take action against an employee for using medical marijuana or for an employer to decide not to hire an employee using medical marijuana. Under the new standard in the proposed Subdivision (c), the City as employer may have to prove that the person's job performance was actually impaired before being able to take action against the employee.

Last, but not least, the proposed subdivision (c) of Health and Safety Code Section 11304 of Proposition 19 may no longer allow a California employer, including the City of San Jose, to choose to maintain a drug-free workplace consistent with the terms of the Federal Drug-Free Workplace Act of 1988, which requires all employers who receive government grants and contracts greater than \$100,000 to maintain a drug-free workplace. Federal grant applicants and contractors must certify that they maintain a drug-free workplace. Workplace conduct with respect to marijuana that would become legal if Proposition 19 passes would still be unlawful under the Federal Controlled Substances Act. Since Proposition 19 would violate the Federal Drug-Free Workplace Act of 1988, the City could be in jeopardy of losing substantial grant funding that it currently receives from the Federal government. This potential consequence has also been pointed out in analysis done by the Chamber of Commerce.

***What is staff's proposed position?***

Oppose, based on the numerous concerns and issues raised above that will be created should the measure pass. Beyond the concerns and issues raised above, it should also be noted that this measure is poorly drafted.

***Who are the proposition's supporters and opponents?***

Proposition 19 is sponsored by Richard Lee, a marijuana legalization activist and medical marijuana provider based in Oakland. Supporters include Joseph McNamara, San Jose Police Chief (Ret.), and the cities of Oakland and Berkeley and the California NAACP. Opponents include the League of CA Cities (LOCC), CA District Attorney's Assoc., CA Police Chiefs Assoc., CA State Sheriffs' Assoc., CA State Firefighters Assoc., California Chamber of Commerce, U.S. Senators Feinstein and Boxer, and Mothers Against Drunk Driving (MADD).

***Coordination of this analysis and recommendation:***

This analysis and recommendation were coordinated with the San Jose Police Department, the Finance Department and the City Attorney's Office.

***Policy Alignment:***

This analysis is consistent with the Council adopted 2010 Legislative Guiding Principles and the Council adopted guidelines to support efforts to keep San Jose safe; protect local control and maintain land-use authority.

**Proposition 23 - Suspends Implementation of Air Pollution Control Law (AB 32) Requiring Major Sources of Emissions to Report and Reduce Greenhouse Gas Emissions that Cause Global Warming Until Unemployment Drops to 5.5 Percent or Less for Full Year. Initiative Statute.**

***Background and Analysis***

With support from business, labor, environmental, and health organizations California passed AB 32, the 2006 landmark Global Warming Solutions Act. It requires California to reduce its carbon dioxide emissions and other greenhouse gases to 1990 levels by 2020. Additionally, it established the first-ever mandatory reporting guidelines for global warming pollution.

The California Air Resources Board has been in the process of rule-making since AB 32's passage and has made considerable progress on a scoping plan and regulations associated with the bill's implementation. Countless businesses and local governments have developed climate action plans to achieve AB 32 goals.

Proposition 23 would suspend implementation of AB 32 until California has four consecutive quarters with unemployment at 5.5% or less. Primarily, the initiative is being funded by Valero Energy Corporation and Tesoro Petroleum Corporation with recent substantial contributions from Koch Industries, a Kansas-based oil refining company. Thus far, less than \$1 million of the more than \$8.3 million contributed to the "Yes on 23" campaign has come from within California.

Current unemployment stands around 12%. Given the magnitude of the current economic downturn, it is unlikely that the state would achieve 5.5% levels for four consecutive quarters for quite some time. In fact, suspension would put a substantial "chill" on California's explosive green technology growth with the potential to slow down job creation even more. Additionally, the nonpartisan Legislative Analyst's Office says the initiative language does not provide clear direction on what data should be used to determine the unemployment rate, an ambiguity that will likely prompt lawsuits should the measure pass.

The regulatory certainty provided by AB 32's passage has created considerable incentive for innovative companies to develop numerous "clean green" technologies with the potential to reduce or eliminate emissions of greenhouse gases. Especially in innovation centers such as Silicon Valley, this is allowing California to capitalize upon its prolific innovation, its highly skilled and productive workforce, and venture funding resources to create new "driving" industries with the potential to both create significant economic activity and contribute substantively towards solutions to global warming. The clean green technology economy is being enthusiastically pursued by numerous elements of the local business community such as venture capital firms, traditional high technology firms, numerous start-ups, and many business advocacy groups such as the Silicon Valley Leadership Group. They all recognize the potential of this sector to create jobs and wealth while helping to solve the world's pressing environmental problems. With targeted investment in the clean energy economy over the last few years the U.S. now employs more workers in the wind generation industry than in the coal industry.

Those in support of the measure (which they call "The California Jobs Initiative) assert that it would protect jobs in California. However, the clean green technology sector has recently proven to be more effective at creating local jobs than traditional economic sectors. Between 1995 and

2008, California green businesses increased 45 percent in number. Employment in these businesses grew 36% while total jobs in the state expanded only 13%. Additionally, between 2007 and 2008, California's green jobs grew five percent while total jobs dropped one percent. Jobs in the green economy offer opportunities across the spectrum of skills levels and earnings potential. This green technology revolution has the potential to continue to contribute substantially to the state's economy, creating jobs and tax revenues for municipalities statewide. And as the capital of Silicon Valley, San Jose is in a prime position to lead the clean technology revolution. Perhaps more significant, AB 32 is pioneering initiatives spearheaded by California with the power to change the direction taken by other states and national governments.

Suspension of AB 32 would slow down the state's efforts to reduce its greenhouse gas emissions and the incentive for other states and national governments to enact their own legislation to address climate change. This could contribute to increasing emissions and the associated environmental impacts. For a low-elevation community such as San Jose, this would increase municipal costs to adapt to rising sea levels, the health effects associated with utilizing fossil fuels as a primary energy source, and other environmental effects such as increasing urban heat island effects.

### *How would the passage of this bill affect San José?*

Many of the sustainability goals embodied in San Jose's Green Vision contribute to reductions in climate-changing emissions. They include goals to create 25,000 clean technology jobs, reduce energy use by 50%, achieve 100% renewable electrical energy generation, green building goals, zero waste, green public fleet, and urban forestry goals. The repeal of AB 32 would remove a substantial incentive to create technologies that would make the achievement of these goals feasible. With San Jose's potential to lead the clean technology revolution, repeal of AB 32 would have a deleterious effect on the local economy as well as the global environment by slowing down the development and adoption of clean technologies.

Without the incentives to create and use clean energy technologies, California and other jurisdictions will continue to utilize energy generated from fossil fuels, with their associated environmental, economic and health-related impacts as well as the political and national security impacts associated with dependence on foreign oil. California is home to some of the worst air pollution in the nation in large measure because its sizable population relies on fossil fuels. Of the 73 cities listed on the "Most Polluted Cities" list of the American Lung Association's State of the Air 2010 Report, 28 are in California - almost 40%.

The nation's current energy policies already create substantial barriers to transitioning to cleaner technologies. Oil production is among the most heavily subsidized of American businesses, with tax breaks available at virtually every stage of the exploration and extraction process. According to the most recent study by the Congressional Budget Office, released in 2005, capital investments like oil field leases and drilling equipment are taxed at an effective rate of 9 percent, significantly lower than the overall rate of 25 percent for businesses in general and lower than virtually any other industry. These financial arrangements keep the direct costs of fossil fuels artificially low, making it more difficult for emerging energy sectors to compete. Without legislative mandates such as AB 32, the local clean technology sector will find it even more difficult to get established and move its products to market. Proposition 23 constitutes a substantial leap backward for the American industry and puts the country at a sizable disadvantage to other countries who are embracing this economic sector.

***What is staff's Proposed Position?***

Staff recommends that the City oppose Proposition 23.

***Who are the proposition's supporters and opponents?***

**Supporters:**

Just over 300 organizations or individuals have expressed support for Prop. 23. They include:

The Association of Energy Service Companies  
 The California Automotive Wholesalers Association  
 California Hispanic Chambers of Commerce  
 California Taxpayer Protection Committee  
 Howard Jarvis Taxpayers Association  
 International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers and Helpers (AFL-CIO)  
 Brad Mitzelfelt, Mojave Desert Air Quality Management District Board Member  
 Kim Yamaguchi, Butte County Air Quality Management District Board Member  
 Greater Bakersfield Chamber of Commerce  
 Clovis Chamber of Commerce  
 Gilroy Chamber of Commerce  
 Kern County Taxpayers Association  
 Silicon Valley Black Chamber of Commerce  
 Silicon Valley Taxpayers Association  
 Joann Almond, Victorville City Council  
 Mike Hudson, Suisun City Council Member  
 Reb Monaco, San Benito County Supervisor  
 Fuel Injection of Santa Maria  
 Buttonwillow Ginning Company  
 Cross Petroleum  
 Mzrine Mechanical Repair, Inc.  
 Pacific Oil Cooler Service Inc.  
 Riverside Truck & Equipment, Inc.  
 Supreme Steel Treating, Inc.  
 Touchstone Industrial Supply  
 Visalia RV Sales

**Opponents:**

More than 435 organizations and 940 individuals have voiced their opposition to Proposition 23.

Partial listing of opponents include:

AARP  
 American Academy of Pediatrics - California  
 American Lung Association in California  
 Blue Shield of California  
 Breathe California Bay Area  
 Kaiser Permanente  
 California Professional Firefighters  
 Consumer Federation of California  
 California Labor Federation AFL-CIO  
 International Brotherhood of Electrical Workers Local 569  
 Audubon California  
 California Cars Initiative  
 California League of Conservation Voters  
 Coalition for Clean Air  
 Environmental Defense Fund  
 Greenbelt Alliance  
 League of Conservation Voters

Natural Resources Defense Council  
 Recyclers Global Warming Council  
 Sierra Club California  
 Union of Concerned Scientists  
 Akeena Solar, Inc.  
 Applied Materials  
 Build It Green  
 California Energy Efficiency Industry Council  
 California Natural Gas Vehicle Coalition  
 California Solar Energy Industries Association  
 Fresno Solar  
 Solaria  
 Sacramento Metro Chamber  
 The Westley Group  
 California State NAACP  
 Ella Baker Center for Human Rights  
 Unitarian Universalist Legislative Ministry California  
 California Student Sustainability Coalition  
 California Municipal Utilities Association  
 City of Santa Cruz  
 Gail Slocum, Former Mayor, Menlo Park, Sr. Energy Regulatory Attorney, PG&E  
 Marianna Grossman, President & Executive Director, Sustainable Silicon Valley  
 Winston Hickox, E2 Member  
 Peter Zahn, President, Green Chamber of San Diego County  
 Steve Kirsch, CEO, Propel Accelerator  
 Stephen Mayfield, Director, San Diego Center for Algae Biotechnology  
 Stephen H. Schneider, PhD, Professor, Department of Biology, Stanford University  
 Governor Arnold Schwarzenegger  
 Senator Elaine Alquist  
 Senator Ellen M. Corbett  
 Senator Joe Simitian  
 Assemblymember Joe Coto  
 Assemblymember Paul Fong  
 Assemblymember Bill Monning  
 Assemblymember Ira Ruskin

***Coordination of this analysis and recommendation:***

This analysis and recommendation was coordinated with the Environmental Services Department, the Office of Economic Development, and the City Attorney's Office.

***Policy Alignment:***

This analysis is consistent with the Council adopted 2010 Legislative Guiding Principles to: ensure our region's competitiveness through strategic economic development, and promote livability, sustainable development and environmental protection; the 2010 Clean Tech Legislative Agenda; and the City's Green Vision goals as referenced in the analysis.

**Proposition 26 – Requires That Certain State and local Fees be Approved by Two-Thirds Vote. Also Requires Two-Thirds Voter Approval of Certain Local Fees. Fees Include Those That Address Adverse Impacts on Society or the Environment Caused by the Fee-Payer’s Business. Initiative Constitutional Amendment.**

***Background and Analysis***

Sponsored by the California Chamber of Commerce and the California Taxpayer’s Association, Proposition 26 would require that certain State fees be approved by two-thirds vote of the Legislature and certain local fees be approved by two-thirds of voters. It would increase the legislative vote requirements from majority to two-thirds for State tax measures that do not result in a net increase in revenue. In addition, recent State laws, ( adopted between January 1 and November 2, 2010), would be repealed one-year later if they conflict with this measure unless they are approved by two-thirds of each house of the Legislature. There is no corresponding repeal provision for local fees and charges. In this regard, the LAO’s analysis of the Proposition states that it will not apply to fees imposed by local governments that are in effect as of November 2, 2010, but will apply to future increases or extensions of those fees.

According to the Legislative Analyst’s Office, (LAO) Proposition 26 would broaden the “definition of a State or local tax to include many payments currently considered to be fees or charges. As a result, the measure would have the effect of increasing the number of revenue proposals subject to the higher approval requirements. Generally, the types of fees and charges that would become taxes under the measure are ones that government imposes to address health, environmental, or other societal or economic concerns.”

The LAO provides examples of some of the regulatory fees that could be considered taxes, in part, or in whole if Proposition 26 passes. These include the oil recycling fee, hazardous material fee, and fees on alcohol retailers as illustrated in the Secretary of State’s Voter Guide:

**Oil Recycling Fee:**

The state imposes a regulatory fee on oil manufacturers and uses the funds for:

- Public Information and education programs.
- Payments to local used oil collection programs.
- Payments of recycling incentives.
- Research and demonstration projects.
- Inspections and enforcement of used-oil recycling facilities.

**Hazardous Materials Fee:**

The state imposes a regulatory fee on businesses that treat, dispose of, or recycle hazardous waste and uses the funds for:

- Clean up of toxic waste sites.
- Promotion of pollution prevention.
- Evaluation of waste source reduction plans.
- Certification of new environmental technologies.

**Fees on Alcohol Retailers:**

Some cities impose a fee on alcohol retailers and use the funds for:

- Code enforcement.
- Merchant education to reduce public nuisance problems associated with alcohol (such as violations of alcohol laws, violence, loitering, drug dealing, public drinking and graffiti).

***How would the passage of this measure affect San Jose?***

Analysis of both the LAO and the State Department of Finance concludes that the measure would potentially cause a major decrease in State and local revenues and spending, depending upon future actions of the Legislature, local governing bodies, and local voters. Proposition 26 is broadly written so that unless an exception applies, fees and charges imposed by local governments are taxes requiring two-thirds vote approval. The LAO's analysis focuses on regulatory fees that benefit the public generally and states that under Proposition 26, these would be considered to be taxes. However, as the scope of Proposition 26 is very broad, there may be other types of fees that would be categorized as taxes thereby requiring two-thirds voter approval.

League of California Cities staff have concluded that if this measure is approved by the voters, "the true interpretation of how it will apply will likely take years of litigation. Local agencies will need to individually examine local fees charged to determine how the specific definitions used in this measure may affect an existing fee."

***What is staff's proposed position?***

Staff recommends that the City oppose Proposition 26. The measure is similar to Proposition 37 in 2000 which was defeated by a 52-48 percent vote and was opposed by the City. Historically, the City has been opposed to measures that would attempt to diminish local control over fees and local taxes and limit local agencies' ability to address community concerns.

***Who are the proposition's supporters and opponents?***

Proposition 26 is sponsored and funded by the CA Taxpayers' Association and the CA Chamber of Commerce and is also funded by Chevron, Area Energy LLC and the Wine Institute. Other supporters include the Small Business Action Committee, Americans for Tax Reform and the Howard Jarvis Taxpayers Association.

Opposing groups include the League of California Cities, Peace Officers Research Association of CA, CA League of Conservation Voters, CA Association of Professional Scientists, League of Women Voters of CA, American Lung Association of CA, Sierra Club CA, CA Professional Firefighters, Federation of Teachers, CA Nurses Association and the Consumer Federation of CA.

***Coordination of this analysis and recommendation:***

This analysis and recommendation was coordinated with the City Attorney's Office.

***Policy alignment:***

From the 2010 Legislative Guiding Principles, the "City supports efforts, legislation, and policies that protect local government revenues by maintaining local authority over the collection of fees and generation of revenues."

C A L I F O R N I A  
**GENERAL**  
**ELECTION**

**TUESDAY, NOVEMBER 2, 2010**

★ **OFFICIAL VOTER INFORMATION GUIDE** ★

*Certificate of Correctness*

I, Debra Bowen, Secretary of State of the State of California, hereby certify that the measures included herein will be submitted to the electors at the General Election to be held on November 2, 2010, and that this guide has been prepared in accordance with the law.

Witness my hand and the Great Seal of the State in Sacramento, California, this 10th day of August, 2010.

*Debra Bowen*



Debra Bowen  
*Secretary of State*

# LEGALIZES MARIJUANA UNDER CALIFORNIA BUT NOT FEDERAL LAW. PERMITS LOCAL GOVERNMENTS TO REGULATE AND TAX COMMERCIAL PRODUCTION, DISTRIBUTION, AND SALE OF MARIJUANA. INITIATIVE STATUTE.

OFFICIAL TITLE AND SUMMARY

PREPARED BY THE ATTORNEY GENERAL

## LEGALIZES MARIJUANA UNDER CALIFORNIA BUT NOT FEDERAL LAW. PERMITS LOCAL GOVERNMENTS TO REGULATE AND TAX COMMERCIAL PRODUCTION, DISTRIBUTION, AND SALE OF MARIJUANA. INITIATIVE STATUTE.

- Allows people 21 years old or older to possess, cultivate, or transport marijuana for personal use.
- Permits local governments to regulate and tax commercial production, distribution, and sale of marijuana to people 21 years old or older.
- Prohibits people from possessing marijuana on school grounds, using in public, or smoking it while minors are present.
- Maintains prohibitions against driving while impaired.
- Limits employers' ability to address marijuana use to situations where job performance is actually impaired.

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

- The fiscal effects of this measure could vary substantially depending on: (1) the extent to which the federal government continues to enforce federal marijuana laws and (2) whether the state and local governments choose to authorize, regulate, and tax various marijuana-related activities.
- Savings of potentially several tens of millions of dollars annually to the state and local governments on the costs of incarcerating and supervising certain marijuana offenders.
- Increase in state and local government tax and fee revenues, potentially in the hundreds of millions of dollars annually.

## ANALYSIS BY THE LEGISLATIVE ANALYST

### BACKGROUND

**Federal Law.** Federal laws classify marijuana as an illegal substance and provide criminal penalties for various activities relating to its use. These laws are enforced by federal agencies that may act independently or in cooperation with state and local law enforcement agencies.

**State Law and Proposition 215.** Under current state law, the possession, cultivation, or distribution of marijuana generally is illegal in California. Penalties for marijuana-related activities vary depending on the offense. For example, possession of less than one ounce of marijuana is a misdemeanor punishable by a fine, while selling marijuana is a felony and may result in a prison sentence.

In November 1996, voters approved Proposition 215, which legalized the cultivation and possession of marijuana in California for medical purposes. The U.S. Supreme Court ruled in 2005, however,

that federal authorities could continue to prosecute California patients and providers engaged in the cultivation and use of marijuana for medical purposes. Despite having this authority, the U.S. Department of Justice announced in March 2009 that the current administration would not prosecute marijuana patients and providers whose actions are consistent with state medical marijuana laws.

### PROPOSAL

This measure changes state law to (1) legalize the possession and cultivation of limited amounts of marijuana for personal use by individuals age 21 or older, and (2) authorize various commercial marijuana-related activities under certain conditions. Despite these changes to state law, these marijuana-related activities would continue to be prohibited under federal law. These federal prohibitions could still be enforced by federal agencies. It is not known to what extent the

**PROP 19** LEGALIZES MARIJUANA UNDER CALIFORNIA BUT NOT FEDERAL LAW.  
PERMITS LOCAL GOVERNMENTS TO REGULATE AND TAX COMMERCIAL  
PRODUCTION, DISTRIBUTION, AND SALE OF MARIJUANA. INITIATIVE STATUTE.

ANALYSIS BY THE LEGISLATIVE ANALYST

CONTINUED

federal government would continue to enforce them. Currently, no other state permits commercial marijuana-related activities for non-medical purposes.

### **State Legalization of Marijuana Possession and Cultivation for Personal Use**

Under the measure, persons age 21 or older generally may (1) possess, process, share or transport up to one ounce of marijuana; (2) cultivate marijuana on private property in an area up to 25 square feet per private residence or parcel; (3) possess harvested and living marijuana plants cultivated in such an area; and (4) possess any items or equipment associated with the above activities. The possession and cultivation of marijuana must be solely for an individual's personal consumption and not for sale to others, and consumption of marijuana would only be permitted in a residence or other "non-public place." (One exception is that marijuana could be sold and consumed in licensed establishments, as discussed below.) The state and local governments could also authorize the possession and cultivation of larger amounts of marijuana.

State and local law enforcement agencies could not seize or destroy marijuana from persons in compliance with the measure. In addition, the measure states that no individual could be punished, fined, or discriminated against for engaging in any conduct permitted by the measure. However, it does specify that employers would retain existing rights to address consumption of marijuana that impairs an employee's job performance.

This measure sets forth some limits on marijuana possession and cultivation for personal use. For example, the smoking of marijuana in the presence of minors is not permitted. In addition, the measure would not change existing laws that prohibit driving under the influence of drugs or that prohibit possessing marijuana on the grounds of elementary, middle, and high schools. Moreover, a person age 21 or older who knowingly gave marijuana to a person age 18 through 20 could be sent to county jail for up to six months

and fined up to \$1,000 per offense. (The measure does not change existing criminal laws which impose penalties for adults who furnish marijuana to minors under the age of 18.)

### **Authorization of Commercial Marijuana Activities**

The measure allows local governments to authorize, regulate, and tax various commercial marijuana-related activities. As discussed below, the state also could authorize, regulate, and tax such activities.

**Regulation.** The measure allows local governments to adopt ordinances and regulations regarding commercial marijuana-related activities—including marijuana cultivation, processing, distribution, transportation, and retail sales. For example, local governments could license establishments that could sell marijuana to persons 21 and older. Local governments could regulate the location, size, hours of operation, and signs and displays of such establishments. Individuals could transport marijuana from a licensed marijuana establishment in one locality to a licensed establishment in another locality, regardless of whether any localities in between permitted the commercial production and sale of marijuana. However, the measure does not permit the transportation of marijuana between California and another state or country. An individual who was licensed to sell marijuana to others in a commercial establishment and who negligently provided marijuana to a person under 21 would be banned from owning, operating, being employed by, assisting, or entering a licensed marijuana establishment for one year. Local governments could also impose additional penalties or civil fines on certain marijuana-related activities, such as for violation of a local ordinance limiting the hours of operation of a licensed marijuana establishment.

Whether or not local governments engaged in this regulation, the state could, on a statewide basis, regulate the commercial production of marijuana. The state could also authorize the production of hemp, a type of marijuana plant

**PROP 19** LEGALIZES MARIJUANA UNDER CALIFORNIA BUT NOT FEDERAL LAW.  
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that can be used to make products such as fabric and paper.

**Taxation.** The measure requires that licensed marijuana establishments pay all applicable federal, state, and local taxes and fees currently imposed on other similar businesses. In addition, the measure permits local governments to impose new general, excise, or transfer taxes, as well as benefit assessments and fees, on authorized marijuana-related activities. The purpose of such charges would be to raise revenue for local governments and/or to offset any costs associated with marijuana regulation. In addition, the state could impose similar charges.

## FISCAL EFFECTS

Many of the provisions in this measure permit, but do not require, the state and local governments to take certain actions related to the regulation and taxation of marijuana. Thus, it is uncertain to what extent the state and local governments would in fact undertake such actions. For example, it is unknown how many local governments would choose to license establishments that would grow or sell marijuana or impose an excise tax on such sales.

In addition, although the federal government announced in March 2009 that it would no longer prosecute medical marijuana patients and providers whose actions are consistent with Proposition 215, it has continued to enforce its prohibitions on non-medical marijuana-related activities. This means that the federal government could prosecute individuals for activities that would be permitted under this measure. To the extent that the federal government continued to enforce its prohibitions on marijuana, it would have the effect of impeding the activities permitted by this measure under state law.

Thus, the revenue and expenditure impacts of this measure are subject to significant uncertainty.

### Impacts on State and Local Expenditures

**Reduction in State and Local Correctional Costs.** The measure could result in savings to the

state and local governments by reducing the number of marijuana offenders incarcerated in state prisons and county jails, as well as the number placed under county probation or state parole supervision. These savings could reach several tens of millions of dollars annually. The county jail savings would be offset to the extent that jail beds no longer needed for marijuana offenders were used for other criminals who are now being released early because of a lack of jail space.

**Reduction in Court and Law Enforcement Costs.** The measure would result in a reduction in state and local costs for enforcement of marijuana-related offenses and the handling of related criminal cases in the court system. However, it is likely that the state and local governments would redirect their resources to other law enforcement and court activities.

**Other Fiscal Effects on State and Local Programs.** The measure could also have fiscal effects on various other state and local programs. For example, the measure could result in an increase in the consumption of marijuana, potentially resulting in an unknown increase in the number of individuals seeking publicly funded substance abuse treatment and other medical services. This measure could also have fiscal effects on state- and locally funded drug treatment programs for criminal offenders, such as drug courts. Moreover, the measure could potentially reduce both the costs and offsetting revenues of the state's Medical Marijuana Program, a patient registry that identifies those individuals eligible under state law to legally purchase and consume marijuana for medical purposes.

### Impacts on State and Local Revenues

The state and local governments could receive additional revenues from taxes, assessments, and fees from marijuana-related activities allowed under this measure. If the commercial production and sale of marijuana occurred in California, the state and local governments could receive revenues from a variety of sources in the ways described below.

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- **Existing Taxes.** Businesses producing and selling marijuana would be subject to the same taxes as other businesses. For instance, the state and local governments would receive sales tax revenues from the sale of marijuana. Similarly, marijuana-related businesses with net income would pay income taxes to the state. To the extent that this business activity pulled in spending from persons in other states, the measure would result in a net increase in taxable economic activity in the state.
- **New Taxes and Fees on Marijuana.** As described above, local governments are allowed to impose taxes, fees, and assessments on marijuana-related activities. Similarly, the state could impose taxes and fees on these types of activities. (A portion of any new revenues from these sources would

be offset by increased regulatory and enforcement costs related to the licensing and taxation of marijuana-related activities.)

As described earlier, both the enforcement decisions of the federal government and whether the state and local governments choose to regulate and tax marijuana would affect the impact of this measure. It is also unclear how the legalization of some marijuana-related activities would affect its overall level of usage and price, which in turn could affect the level of state or local revenues from these activities. Consequently, the magnitude of additional revenues is difficult to estimate. To the extent that a commercial marijuana industry developed in the state, however, we estimate that the state and local governments could eventually collect hundreds of millions of dollars annually in additional revenues.

**SUSPENDS IMPLEMENTATION OF AIR POLLUTION CONTROL LAW (AB 32) REQUIRING MAJOR SOURCES OF EMISSIONS TO REPORT AND REDUCE GREENHOUSE GAS EMISSIONS THAT CAUSE GLOBAL WARMING, UNTIL UNEMPLOYMENT DROPS TO 5.5 PERCENT OR LESS FOR FULL YEAR. INITIATIVE STATUTE.**

OFFICIAL TITLE AND SUMMARY

PREPARED BY THE ATTORNEY GENERAL

**SUSPENDS IMPLEMENTATION OF AIR POLLUTION CONTROL LAW (AB 32) REQUIRING MAJOR SOURCES OF EMISSIONS TO REPORT AND REDUCE GREENHOUSE GAS EMISSIONS THAT CAUSE GLOBAL WARMING, UNTIL UNEMPLOYMENT DROPS TO 5.5 PERCENT OR LESS FOR FULL YEAR. INITIATIVE STATUTE.**

- Suspends State law that requires greenhouse gas emissions be reduced to 1990 levels by 2020, until California's unemployment drops to 5.5 percent or less for four consecutive quarters.
- Suspends comprehensive greenhouse-gas-reduction program that includes increased renewable energy and cleaner fuel requirements, and mandatory emissions reporting and fee requirements for major emissions sources such as power plants and oil refineries.

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

- The suspension of AB 32 could result in a modest net increase in overall economic activity in the state. In this event, there would be an unknown but potentially significant net increase in state and local government revenues.
- Potential loss of a new source of state revenues from the auctioning of emission allowances by state government to certain businesses that would pay for these allowances, by suspending the future implementation of cap-and-trade regulations.
- Lower energy costs for state and local governments than otherwise.

**ANALYSIS BY THE LEGISLATIVE ANALYST**

**BACKGROUND**

*Global Warming and Greenhouse Gases.*

Greenhouse gases (GHGs) are gases that trap heat from the sun within the earth's atmosphere, thereby warming the earth's temperature. Both natural phenomena (mainly the evaporation of water) and human activities (principally burning fossil fuels) produce GHGs. Scientific experts have voiced concerns that higher concentrations of GHGs resulting from human activities are increasing global temperatures, and that such global temperature rises could eventually cause significant problems. Such global temperature increases are commonly referred to as global warming, or climate change.

As a populous state with a large industrial economy, California is the second largest emitter of GHGs in the United States and one of the largest emitters of GHGs in the world. Climate change is a global issue necessitating an international approach. Actions in California regarding GHGs have been advocated on the basis

that they will contribute to a solution and may act as a catalyst to the undertaking of GHG mitigation policies elsewhere in our nation and in other countries.

*Assembly Bill 32 Enacted to Limit GHGs.* In 2006, the state enacted the California Global Warming Solutions Act of 2006, commonly referred to as Assembly Bill 32 or "AB 32." This legislation established the target of reducing the state's emissions of GHGs by 2020 to the level that emissions were at in 1990. It is estimated that achieving this target would result in about a 30 percent reduction in GHGs in 2020 from where their level would otherwise be in the absence of AB 32.

Assembly Bill 32 requires the state Air Resources Board (ARB) to adopt rules and regulations to achieve this reduction. The law also directs ARB, in developing these rules and regulations, to take advantage of opportunities to improve air quality, thereby creating public health benefits from the state's GHG emission reduction activities.

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***Other Laws Would Reduce GHG Emissions.***

In addition to AB 32, a number of other state laws have been enacted by the Legislature that would reduce GHG emissions. In some cases, the main purpose of these other laws is specifically to reduce GHG emissions. For example, a 2002 law requires the ARB to adopt regulations to reduce GHG emissions from cars and smaller trucks. Other laws have authorized various energy efficiency programs that could have the effect of reducing GHG emissions, although this may not have been their principal purpose.

***“Scoping Plan” to Reach GHG Emission***

***Reduction Target.*** As required by AB 32, the ARB in December 2008 released its plan on how AB 32’s GHG emission reduction target for 2020 would be met. The plan—referred to as the AB 32 Scoping Plan—encompasses a number of different types of measures to reduce GHG emissions. Some are measures authorized by AB 32, while others are authorized by separately enacted laws. Some of these measures have as their primary objective something other than reducing GHGs, such as reducing the state’s dependency on fossil fuels.

The plan includes a mix of traditional regulatory measures and market-based measures. Traditional regulations, such as energy efficiency standards for buildings, would require individuals and businesses to take specific actions to reduce emissions. Market-based measures provide those subject to them greater flexibility in *how* to achieve GHG emission reductions. The major market-based measure included in the Scoping Plan is a “cap-and-trade” program. Under such a program, the ARB would set a limit, or *cap*, on GHG emissions; issue a limited number of emission allowances to emitters related to the amount of GHGs they emit; and allow emitters covered by the program to buy, sell, or *trade* those emission allowances.

Some measures in the Scoping Plan have already been adopted in the form of regulations. Other regulations are either currently under development or will be developed in the near future. Assembly Bill 32 requires that all regulations for GHG

emission reduction measures be adopted by January 1, 2011, and in effect by January 1, 2012.

***Fee Assessed to Cover State’s Administrative Costs.*** As allowed under AB 32, the ARB has adopted a regulation to recover the state’s costs of administering the GHG emission reduction programs. Beginning in fall 2010, entities that emit a high amount of GHGs, such as power plants and refineries, must pay annual fees that will be used to offset these administrative costs. Fee revenues will also be used to repay various state special funds that have made loans totaling \$83 million to the AB 32 program. These loans have staggered repayment dates that run through 2014.

***The Economic Impact of Implementing the Scoping Plan.*** The implementation of the AB 32 Scoping Plan will reduce levels of GHG emissions and related air pollutants by imposing various new requirements and costs on certain businesses and individuals. The reduced emissions and the new costs will both affect the California economy. There is currently a significant ongoing debate about the impacts to the California economy from implementing the Scoping Plan. Economists, environmentalists, and policy makers have voiced differing views about how the Scoping Plan will affect the gross state product, personal income, prices, and jobs. The considerable uncertainty about the Scoping Plan’s “bottom-line” or net impact on the economy is due to a number of reasons. First, because a number of the Scoping Plan measures have yet to be fully developed, the economic impacts will depend heavily on how the measures are designed in the public regulatory process. Second, because a number of the Scoping Plan measures are phased in over time, the full economic impacts of some measures would not be felt for several years. Third, the implementation of the Scoping Plan has the potential to create both positive and negative impacts on the economy. This includes the fact that there will be both “winners” and “losers” under the implementation of the Scoping Plan for particular economic sectors, businesses, and individuals.

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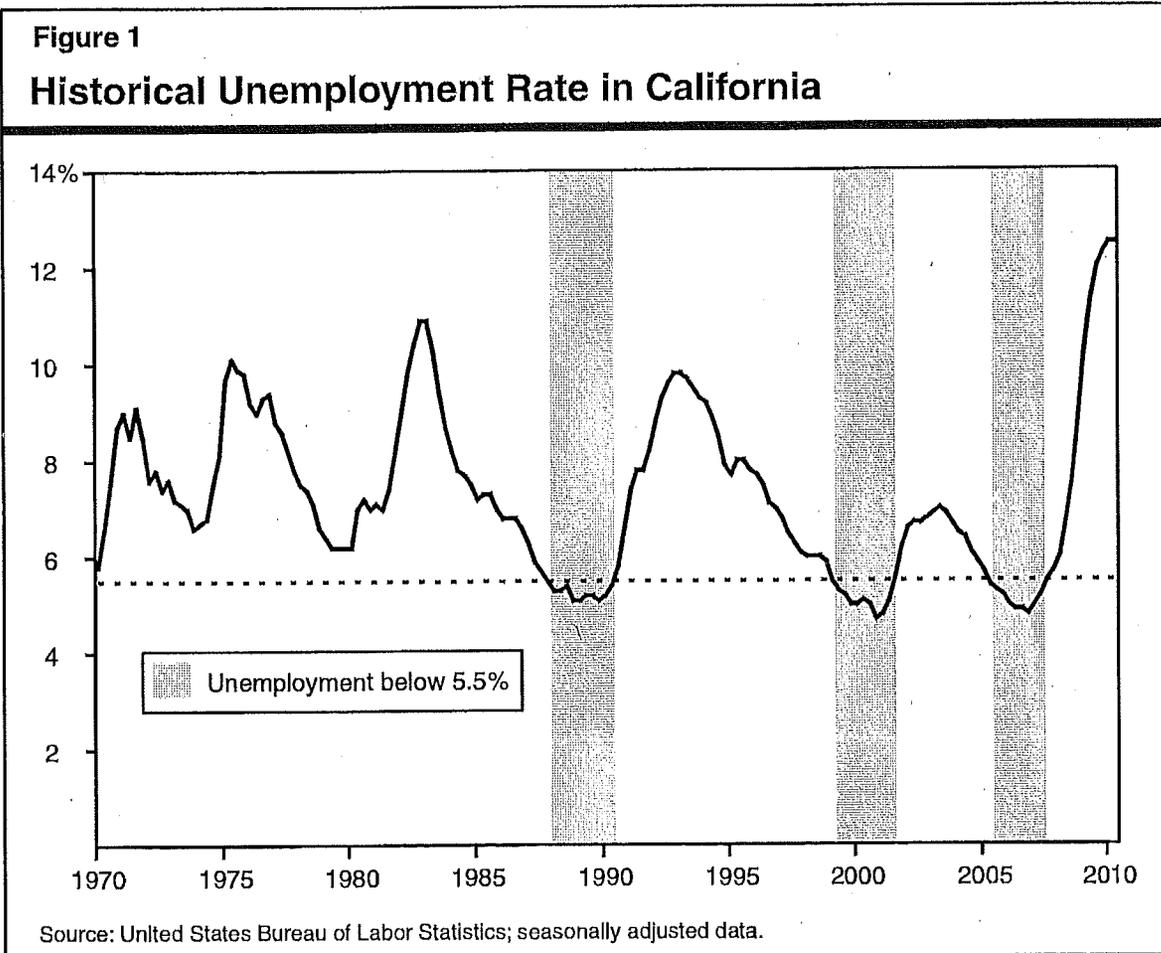
A number of studies have considered the economic impacts of the Scoping Plan implementation in 2020—the year when AB 32’s GHG emission reduction target is to be met. Those studies that have looked at the economic impacts from a relatively broad perspective have, for the most part, found that there will be some modest reduction in California’s gross state product, a comprehensive measure of economic activity for the state. These findings reflect how such things as more expensive energy, new investment requirements, and costs of regulatory compliance combine to increase the costs of producing materials, goods, and services that consumers and businesses buy. Given all of the uncertainties involved, however, the net economic impact of the Scoping Plan remains a matter of debate.

**PROPOSAL**

This proposition suspends the implementation of AB 32 until the unemployment rate in California is 5.5 percent or less for four consecutive quarters. During the suspension period, state agencies are prohibited from proposing or adopting new regulations, or enforcing previously adopted regulations, that would implement AB 32. (Once AB 32 went back into effect, this measure could not suspend it again.)

**IMPACTS OF THIS PROPOSITION ON CLIMATE CHANGE REGULATION**

*AB 32 Would Be Suspended, Likely for Many Years.* Under this proposition, AB 32 would be suspended immediately. It would remain suspended until the state’s unemployment rate was



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5.5 percent or less for four consecutive quarters (a one-year period). We cannot estimate when the suspension of AB 32 might end. Figure 1 provides historical perspective on the state's unemployment rate. It shows that, since 1970, the state has had three periods (each about ten quarters long) when the unemployment rate was at or below 5.5 percent for four consecutive quarters or more. The unemployment rate in California for the first two quarters of 2010 was above 12 percent. Economic forecasts for the next five years have the state's unemployment rate remaining above 8 percent. Given these factors, it appears likely that AB 32 would remain suspended for many years.

***Various Climate Change Regulatory Activities Would Be Suspended.*** This proposition would result in the suspension of a number of measures in the Scoping Plan for which regulations either have been adopted or are proposed for adoption. Specifically, this proposition would likely suspend:

- The proposed cap-and-trade regulation discussed above.
- The "low carbon fuel standard" regulation that requires providers of transportation fuel in California (such as refiners and importers) to change the mix of fuels to lower GHG emissions.
- The proposed ARB regulation that is intended to require privately and publicly owned utilities and others who sell electricity to obtain at least 33 percent of their supply from "renewable" sources, such as solar or wind power, by 2020. (The current requirement that 20 percent of the electricity obtained by privately owned utilities come from renewable sources by 2010 would not be suspended by this proposition.)
- The fee to recover state agency costs of administering AB 32.

***Much Regulation in the Scoping Plan Would Likely Continue.*** Many current activities related to addressing climate change and reducing GHG emissions would probably not be suspended by this proposition. That is because certain Scoping

Plan regulations implement laws other than AB 32. The regulations that would likely move forward, for example, include:

- New vehicle emission standards for cars and smaller trucks.
- A program to encourage homeowners to install solar panels on their roofs.
- Land-use policies to promote less reliance on vehicle use.
- Building and appliance energy efficiency requirements.

We estimate that more than one-half of the emission reductions from implementing the Scoping Plan would come because of laws enacted separately from AB 32.

## FISCAL EFFECTS

### Potential Impacts on California Economy and State and Local Revenues

There would likely be both positive and negative impacts on the California economy if AB 32 were suspended. These economic impacts, in turn, would affect state and local government revenues. We discuss these effects below.

***Potential Positive Economic Impacts.*** The suspension of AB 32 would likely have several positive impacts on the California economy. Suspending AB 32 would reduce the need for new investments and other actions to comply with new regulations that would be an added cost to businesses. Energy prices—which also affect the state's economy—would be lower in 2020 than otherwise. This is because the proposed cap-and-trade regulation, as well as the requirement that electric utilities obtain a greater portion of their electricity supplies from renewable energy sources, would otherwise require utilities to make investments that would increase the costs of producing or delivering electricity. Such investments would be needed to comply with these regulations, such as by obtaining electricity from higher-priced sources than would otherwise be the case. The suspension of such measures by

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this proposition could therefore lower costs to businesses and avoid energy price increases that otherwise would largely be passed on to energy consumers.

**Potential Negative Economic Impacts.** The suspension of AB 32 could also have negative impacts on the California economy. For example, the suspension of some Scoping Plan measures could delay investments in clean technologies that might result in some cost savings to businesses and consumers. Investment in research and development and job creation in the energy efficiency and clean energy sectors that support or profit from the goals of AB 32 might also be discouraged by this proposition, resulting in less economic activity in certain sectors than would otherwise be the case. Suspending some Scoping Plan measures could halt air quality improvements that would have public health benefits, such as reduced respiratory illnesses. These public health benefits translate into economic benefits, such as increased worker productivity and reduced government and business costs for health care.

**Net Economic Impact.** As discussed previously, only a portion of the Scoping Plan measures would be suspended by the proposition. Those measures would have probably resulted in increased compliance costs to businesses and/or increased energy prices. On the other hand, those measures probably would have yielded public health-related economic benefits and increased profit opportunities for certain economic sectors. Considering both the potential positive and negative economic impacts of the proposition, we conclude that, on balance, economic activity in the state would likely be modestly higher if this proposition were enacted than otherwise.

**Economic Changes Would Affect State and Local Revenues.** Revenues from taxes on personal and business income and on sales rise and fall because of changes in the level of economic activity in the state. To the extent that the suspension of AB 32 resulted in somewhat higher economic activity in the state, this would translate into an unknown but potentially significant increase in revenues to the state and local governments.

### Other Fiscal Effects

**Impacts of Suspension of the Cap-and-Trade Regulation.** The suspension of ARB's proposed cap-and-trade regulation could have other fiscal effects depending on how this regulation would otherwise have been designed and implemented. One proposed approach provides for the auctioning of emission allowances by the state to emitters of GHGs. This approach would increase costs to affected firms doing business in the state, as they would have to pay for allowances. Such auctions could result in as much as several billion dollars of new revenues annually to the state that could be used for a variety of purposes. For example, depending on future actions of the Legislature, the auction revenues could be used to reduce other state taxes or to increase state spending for purposes that may or may not be related to efforts to prevent global warming. Thus, the suspension of AB 32 could preclude the collection by the state of potentially billions of dollars in new allowance-related payments from businesses.

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***Potential Impacts on State and Local Government Energy Costs.*** As noted above, the suspension of certain AB 32 regulations would likely result in lower energy prices in California than would otherwise occur. Because state and local government agencies are large consumers of energy, the suspension of some AB 32-related regulations would reduce somewhat state and local government energy costs.

***Impacts on State Administrative Costs and Fees.*** During the suspension of AB 32, state administrative costs to develop and enforce regulations pursuant to AB 32 would be reduced significantly, potentially by the low tens of millions of dollars annually. However, during a suspension, the state would not be able to collect the fee authorized under AB 32 to pay these administrative costs. As a result, there would no

longer be a dedicated funding source to repay loans that have been made from certain state special funds to support the operation of the AB 32 program. This would mean that other sources of state funds, potentially including the General Fund, might have to be used instead to repay the loans. These potential one-time state costs could amount to tens of millions of dollars. Once AB 32 went back into effect, revenues from the AB 32 administrative fee could be used to pay back the General Fund or other state funding sources that were used to repay the loans.

In addition, once any suspension of AB 32 regulations ended, the state might incur some additional costs to reevaluate and update work to implement these measures that was under way prior to the suspension.

PROPOSITION  
**26**

**REQUIRES THAT CERTAIN STATE AND LOCAL FEES BE APPROVED BY TWO-THIRDS VOTE. FEES INCLUDE THOSE THAT ADDRESS ADVERSE IMPACTS ON SOCIETY OR THE ENVIRONMENT CAUSED BY THE FEE-PAYER'S BUSINESS. INITIATIVE CONSTITUTIONAL AMENDMENT.**

OFFICIAL TITLE AND SUMMARY

PREPARED BY THE ATTORNEY GENERAL

**REQUIRES THAT CERTAIN STATE AND LOCAL FEES BE APPROVED BY TWO-THIRDS VOTE. FEES INCLUDE THOSE THAT ADDRESS ADVERSE IMPACTS ON SOCIETY OR THE ENVIRONMENT CAUSED BY THE FEE-PAYER'S BUSINESS. INITIATIVE CONSTITUTIONAL AMENDMENT.**

- Requires that certain state fees be approved by two-thirds vote of Legislature and certain local fees be approved by two-thirds of voters.
- Increases legislative vote requirement to two-thirds for certain tax measures, including those that do not result in a net increase in revenue, currently subject to majority vote.

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

- Decreased state and local government revenues and spending due to the higher approval requirements for new revenues. The amount of the decrease would depend on future decisions by governing bodies and voters, but over time could total up to billions of dollars annually.
- **Additional state fiscal effects from repealing recent fee and tax laws: (1) increased transportation program spending and increased General Fund costs of \$1 billion annually, and (2) unknown potential decrease in state revenues.**

ANALYSIS BY THE LEGISLATIVE ANALYST

**BACKGROUND**

State and local governments impose a variety of taxes, fees, and charges on individuals and businesses. Taxes—such as income, sales, and property taxes—are typically used to pay for general public services such as education, prisons, health, and social services. Fees and charges, by comparison, typically pay for a particular service or program benefitting individuals or businesses. There are three broad categories of fees and charges:

- User fees—such as state park entrance fees and garbage fees, where the user pays for the cost of a specific service or program.

- Regulatory fees—such as fees on restaurants to pay for health inspections and fees on the purchase of beverage containers to support recycling programs. Regulatory fees pay for programs that place requirements on the activities of businesses or people to achieve particular public goals or help offset the public or environmental impact of certain activities.
- Property charges—such as charges imposed on property developers to improve roads leading to new subdivisions and assessments that pay for improvements and services that benefit the property owner.

Figure 1

**Approval Requirements: State and Local Taxes, Fees, and Charges**

	State	Local
<b>Tax</b>	Two-thirds of each house of the Legislature for measures increasing state revenues.	<ul style="list-style-type: none"> <li>• Two-thirds of local voters if the local government specifies how the funds will be used.</li> <li>• Majority of local voters if the local government does not specify how the funds will be used.</li> </ul>
<b>Fee</b>	Majority of each house of the Legislature.	Generally, a majority of the governing body.
<b>Property Charges</b>	Majority of each house of the Legislature.	Generally, a majority of the governing body. Some also require approval by a majority of property owners or two-thirds of local voters.

**PROP 26** REQUIRES THAT CERTAIN STATE AND LOCAL FEES BE APPROVED BY TWO-THIRDS VOTE. FEES INCLUDE THOSE THAT ADDRESS ADVERSE IMPACTS ON SOCIETY OR THE ENVIRONMENT CAUSED BY THE FEE-PAYER'S BUSINESS. INITIATIVE CONSTITUTIONAL AMENDMENT.

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State law has different approval requirements regarding taxes, fees, and property charges. As Figure 1 shows, state or local governments usually can create or increase a fee or charge with a majority vote of the governing body (the Legislature, city council, county board of supervisors, etc.). In contrast, increasing tax revenues usually requires approval by two-thirds of each house of the state Legislature (for state proposals) or a vote of the people (for local proposals).

**Disagreements Regarding Regulatory Fees.** Over the years, there has been disagreement regarding the difference between regulatory fees and taxes, particularly when the money is raised to pay for a program of broad public benefit. In 1991, for example, the state began imposing a regulatory fee on businesses that made products containing lead. The state uses this money to screen children at risk for lead poisoning, follow up on their treatment, and identify sources of lead contamination responsible for the poisoning. In court, the Sinclair Paint Company argued that this regulatory fee was a tax

because: (1) the program provides a broad public benefit, not a benefit to the regulated business, and (2) the companies that pay the fee have no duties regarding the lead poisoning program other than payment of the fee.

In 1997, the California Supreme Court ruled that this charge on businesses was a regulatory fee, not a tax. The court said government may impose regulatory fees on companies that make contaminating products in order to help correct adverse health effects related to those products. Consequently, regulatory fees of this type can be created or increased by (1) a majority vote of each house of the Legislature or (2) a majority vote of a local governing body.

### PROPOSAL

This measure expands the definition of a tax and a tax increase so that more proposals would require approval by two-thirds of the Legislature or by local voters. Figure 2 summarizes its main provisions.

Figure 2

#### Major Provisions of Proposition 26

- ✓ **Expands the Scope of What Is a State or Local Tax**
  - Classifies as taxes some fees and charges that government currently may impose with a majority vote.
  - As a result, more state revenue proposals would require approval by two-thirds of each house of the Legislature and more local revenue proposals would require local voter approval.
- ✓ **Raises the Approval Requirement for Some State Revenue Proposals**
  - Requires a two-thirds vote of each house of the Legislature to approve laws that increase taxes on any taxpayer, even if the law's overall fiscal effect does not increase state revenues.
- ✓ **Repeals Recently Passed, Conflicting State Laws**
  - Repeals recent state laws that conflict with this measure, unless they are approved again by two-thirds of each house of the Legislature. Repeal becomes effective in November 2011.

**PROP 26** REQUIRES THAT CERTAIN STATE AND LOCAL FEES BE APPROVED BY TWO-THIRDS VOTE. FEES INCLUDE THOSE THAT ADDRESS ADVERSE IMPACTS ON SOCIETY OR THE ENVIRONMENT CAUSED BY THE FEE-PAYER'S BUSINESS. INITIATIVE CONSTITUTIONAL AMENDMENT.

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**Definition of a State or Local Tax**

*Expands Definition.* This measure broadens the definition of a state or local tax to include many payments currently considered to be fees or charges. As a result, the measure would have the effect of increasing the number of revenue proposals subject to the higher approval requirements summarized in Figure 1. Generally, the types of fees and charges that would become taxes under the measure are ones that government imposes to address health, environmental, or other societal or economic concerns. Figure 3 provides examples of some regulatory fees that could be considered taxes, in part or in whole, under the measure. This is because these fees pay for many services that benefit the public broadly, rather than providing services directly to the fee payer. The state currently uses these types of regulatory fees to pay for most of its environmental programs.

Certain other fees and charges also could be considered to be taxes under the measure. For example, some business assessments could be considered to be taxes because government uses the assessment revenues to improve shopping districts

(such as providing parking, street lighting, increased security, and marketing), rather than providing a direct and distinct service to the business owner.

*Some Fees and Charges Are Not Affected.* The change in the definition of taxes would not affect most user fees, property development charges, and property assessments. This is because these fees and charges generally comply with Proposition 26's requirements already, or are exempt from its provisions. In addition, most other fees or charges in existence at the time of the November 2, 2010 election would not be affected unless:

- The state or local government later increases or extends the fees or charges. (In this case, the state or local government would have to comply with the approval requirements of Proposition 26.)
- The fees or charges were created or increased by a state law—passed between January 1, 2010 and November 2, 2010—that conflicts with Proposition 26 (discussed further below).

**Approval Requirement for State Tax Measures**

*Current Requirement.* The State Constitution currently specifies that laws enacted “for the purpose

**Figure 3  
Regulatory Fees That Benefit the Public Broadly**

**Oil Recycling Fee**

The state imposes a regulatory fee on oil manufacturers and uses the funds for:

- Public information and education programs.
- Payments to local used oil collection programs.
- Payment of recycling incentives.
- Research and demonstration projects.
- Inspections and enforcement of used-oil recycling facilities.

**Hazardous Materials Fee**

The state imposes a regulatory fee on businesses that treat, dispose of, or recycle hazardous waste and uses the funds for:

- Clean up of toxic waste sites.
- Promotion of pollution prevention.
- Evaluation of waste source reduction plans.
- Certification of new environmental technologies.

**Fees on Alcohol Retailers**

Some cities impose a fee on alcohol retailers and use the funds for:

- Code and law enforcement.
- Merchant education to reduce public nuisance problems associated with alcohol (such as violations of alcohol laws, violence, loitering, drug dealing, public drinking, and graffiti).

**26** PROP. 26 REQUIRES THAT CERTAIN STATE AND LOCAL FEES BE APPROVED BY TWO-THIRDS VOTE. FEES INCLUDE THOSE THAT ADDRESS ADVERSE IMPACTS ON SOCIETY OR THE ENVIRONMENT CAUSED BY THE FEE-PAYER'S BUSINESS. INITIATIVE CONSTITUTIONAL AMENDMENT.

ANALYSIS BY THE LEGISLATIVE ANALYST

CONTINUED

of increasing revenues” must be approved by two-thirds of each house of the Legislature. Under current practice, a law that increases the amount of taxes charged to some taxpayers but offers an equal (or larger) reduction in taxes for other taxpayers has been viewed as not increasing revenues. As such, it can be approved by a majority vote of the Legislature.

**New Approval Requirement.** The measure specifies that state laws that result in *any* taxpayer paying a higher tax must be approved by two-thirds of each house of the Legislature.

### State Laws in Conflict With Proposition 26

**Repeal Requirement.** Any state law adopted between January 1, 2010 and November 2, 2010 that conflicts with Proposition 26 would be repealed one year after the proposition is approved. This repeal would not take place, however, if two-thirds of each house of the Legislature passed the law again.

**Recent Fuel Tax Law Changes.** In the spring of 2010, the state increased fuel taxes paid by gasoline suppliers, but decreased other fuel taxes paid by gasoline retailers. Overall, these changes do not raise more state tax revenues, but they give the state greater spending flexibility over their use.

Using this flexibility, the state shifted about \$1 billion of annual transportation bond costs from the state’s General Fund to its fuel tax funds. (The General Fund is the state’s main funding source for schools, universities, prisons, health, and social services programs.) This action decreases the amount of money available for transportation programs, but helps the state balance its General Fund budget. Because the Legislature approved this tax change with a majority vote in each house, this law would be repealed in November 2011—unless the Legislature approved the tax again with a two-thirds vote in each house.

**Other Laws.** At the time this analysis was prepared (early in the summer of 2010), the Legislature and Governor were considering many new laws and funding changes to address the state’s major budget difficulties. In addition, parts of this measure would be subject to future interpretation by the courts. As a result, we cannot determine the full range of state laws that could be affected or repealed by the measure.

### FISCAL EFFECTS

**Approval Requirement Changes.** By expanding the scope of what is considered a tax, the measure would make it more difficult for state and local governments to pass new laws that raise revenues. This change would affect many environmental, health, and other regulatory fees (similar to the ones in Figure 3), as well as some business assessments and other levies. New laws to create—or extend—these types of fees and charges would be subject to the higher approval requirements for taxes.

The fiscal effect of this change would depend on future actions by the Legislature, local governing boards, and local voters. If the increased voting requirements resulted in some proposals not being approved, government revenues would be lower than otherwise would have occurred. This, in turn, likely would result in comparable decreases in state spending.

Given the range of fees and charges that would be subject to the higher approval threshold for taxes, the fiscal effect of this change could be major. Over time, we estimate that it could reduce government revenues and spending statewide by up to billions of dollars annually compared with what otherwise would have occurred.

**Repeal of Conflicting Laws.** Repealing conflicting state laws could have a variety of fiscal effects. For example, repealing the recent fuel tax laws would increase state General Fund costs by about \$1 billion annually for about two decades and increase funds available for transportation programs by the same amount.

Because this measure could repeal laws passed *after* this analysis was prepared and some of the measure’s provisions would be subject to future interpretation by the courts, we cannot estimate the full fiscal effect of this repeal provision. Given the nature of the proposals the state was considering in 2010, however, it is likely that repealing any adopted proposals would decrease state revenues (or in some cases increase state General Fund costs). Under this proposition, these fiscal effects could be avoided if the Legislature approves the laws again with a two-thirds vote of each house.

# QUICK-REFERENCE GUIDE

**PROP 19** LEGALIZES MARIJUANA UNDER CALIFORNIA BUT NOT FEDERAL LAW. PERMITS LOCAL GOVERNMENTS TO REGULATE AND TAX COMMERCIAL PRODUCTION, DISTRIBUTION, AND SALE OF MARIJUANA. INITIATIVE STATUTE.

## SUMMARY

*Put on the Ballot by Petition Signatures*

Allows people 21 years old or older to possess, cultivate, or transport marijuana for personal use. Fiscal Impact: Depending on federal, state, and local government actions, potential increased tax and fee revenues in the hundreds of millions of dollars annually and potential correctional savings of several tens of millions of dollars annually.

*On August 10, 2010, the State Legislature and Governor removed Proposition 18 from the ballot.*

## WHAT YOUR VOTE MEANS

**YES** A YES vote on this measure means: Individuals age 21 or older could, under state law, possess and cultivate limited amounts of marijuana for personal use. In addition, the state and local governments could authorize, regulate, and tax commercial marijuana-related activities under certain conditions. These activities would remain illegal under federal law.

**NO** A NO vote on this measure means: The possession and cultivation of marijuana for personal use and commercial marijuana-related activities would remain illegal under state law, unless allowed under the state's existing medical marijuana law.

## ARGUMENTS

**PRO** COMMON SENSE CONTROL OF MARIJUANA. Stops wasting taxpayer dollars on failed marijuana prohibition. Controls and taxes marijuana like alcohol. Makes marijuana available *only* to adults. Adds criminal penalties for giving it to anyone under 21. Weakens drug cartels. Enforces road and workplace safety. Generates billions in revenue. Saves taxpayers money.

**CON** Opposed by Mothers Against Drunk Driving (MADD) because allows drivers to smoke marijuana until the moment they climb behind the wheel. Endangers public safety. Jeopardizes \$9,400,000,000.00 in school funding, billions in federal contracts, thousands of jobs. Opposed by California's Sheriffs, Police Chiefs, Firefighters and District Attorneys. Vote "No" on 19.

## FOR ADDITIONAL INFORMATION

**FOR**  
James Rigdon  
Yes on Proposition 19  
1776 Broadway  
Oakland, CA 94612  
(510) 268-9701  
info@taxcannabis.org  
www.yeson19.com

**AGAINST**  
No On Proposition 19—  
Public Safety First  
info@NoOnProposition19.com  
www.NoOnProposition19.com

# QUICK-REFERENCE GUIDE

## PROP 20 REDISTRICTING OF CONGRESSIONAL DISTRICTS. INITIATIVE CONSTITUTIONAL AMENDMENT.

### SUMMARY

*Put on the Ballot by Petition Signatures*

Removes elected representatives from process of establishing congressional districts and transfers that authority to recently-authorized 14-member redistricting commission comprised of Democrats, Republicans, and representatives of neither party. Fiscal Impact: No significant net change in state redistricting costs.

### WHAT YOUR VOTE MEANS

**YES** A YES vote on this measure means: The responsibility to determine the boundaries of California's districts in the U.S. House of Representatives would be moved to the Citizens Redistricting Commission, a commission established by Proposition 11 in 2008. (Proposition 27 on this ballot also concerns redistricting issues. If both Proposition 20 and Proposition 27 are approved by voters, the proposition receiving the greater number of "yes" votes would be the only one to go into effect.)

**NO** A NO vote on this measure means: The responsibility to determine the boundaries of California's districts in the U.S. House of Representatives would remain with the Legislature.

### ARGUMENTS

**PRO** TAXPAYER, GOOD GOVERNMENT GROUPS SUPPORT 20 so the voter-approved Citizens Redistricting Commission will draw fair districts for the Legislature AND Congress. POLITICIANS oppose 20 so they can keep power to draw "safe" Congressional districts. YES on 20 helps us vote politicians out of office for not doing their jobs.

**CON** Vote No on 20. Accountability to the people is the fundamental principle of our form of government. But 20 gives a non-accountable fourteen-person bureaucracy even more power. And this bureaucracy will cost you money! Our state is in crisis! Unemployment, crime, massive debt. Stop the nonsense. No on 20.

### FOR ADDITIONAL INFORMATION

**FOR**  
Yes on 20, No on 27—Hold Politicians Accountable, a coalition of taxpayers, seniors, good government groups, small business and community organizations.  
925 University Ave.  
Sacramento, CA 95825  
(866) 395-6121  
email@yes20no27.org  
www.yesprop20.org

**AGAINST**  
No on 20  
6380 Wilshire Boulevard,  
Suite 1612  
Los Angeles, CA 90048  
(323) 655-4065  
www.noprop20.org

## PROP 21 ESTABLISHES \$18 ANNUAL VEHICLE LICENSE SURCHARGE TO HELP FUND STATE PARKS AND WILDLIFE PROGRAMS. GRANTS SURCHARGED VEHICLES FREE ADMISSION TO ALL STATE PARKS. INITIATIVE STATUTE.

### SUMMARY

*Put on the Ballot by Petition Signatures*

Exempts commercial vehicles, trailers and trailer coaches from the surcharge. Fiscal Impact: Annual increase to state revenues of \$500 million from surcharge on vehicle registrations. After offsetting some existing funding sources, these revenues would provide at least \$250 million more annually for state parks and wildlife conservation.

### WHAT YOUR VOTE MEANS

**YES** A YES vote on this measure means: An \$18 annual surcharge would be added to the amount paid when a person registers a motor vehicle. The surcharge revenues would be used to provide funding for state park and wildlife conservation programs. Vehicles subject to the surcharge would have free admission and parking at all state parks.

**NO** A NO vote on this measure means: State park and wildlife conservation programs would continue to be funded through existing state and local funding sources. Admission and parking fees could continue to be charged for vehicles entering state parks.

### ARGUMENTS

**PRO** California's state parks and beaches are in peril and face irreparable damage. Prop. 21 establishes vitally-needed Trust Fund to keep parks open, maintained, and safe. Protects economic benefits to California from parks-related tourism. Prohibits politicians' raids, and mandates Annual Audits and Citizens' Oversight.

**CON** Prop. 21 is a cynical plan to bring back the car tax. Politicians in Sacramento are already scheming to divert existing park funds to other wasteful programs so overall park funding doesn't increase but car taxes do. Say No to car taxes and wrong priorities. No on 21.

### FOR ADDITIONAL INFORMATION

**FOR**  
Yes on 21: Californians for State Parks and Wildlife Conservation  
info@yesforstateparks.com  
www.YesForStateParks.com

**AGAINST**  
Rob Stutzman  
Californians Against Car Taxes,  
No on Proposition 21  
1415 L Street, Suite 430  
Sacramento, CA 95814

# QUICK-REFERENCE GUIDE

**PROP 22** PROHIBITS THE STATE FROM BORROWING OR TAKING FUNDS USED FOR TRANSPORTATION, REDEVELOPMENT, OR LOCAL GOVERNMENT PROJECTS AND SERVICES. INITIATIVE CONSTITUTIONAL AMENDMENT.

**PROP 23** SUSPENDS IMPLEMENTATION OF AIR POLLUTION CONTROL LAW (AB 32) REQUIRING MAJOR SOURCES OF EMISSIONS TO REPORT AND REDUCE GREENHOUSE GAS EMISSIONS THAT CAUSE GLOBAL WARMING, UNTIL UNEMPLOYMENT DROPS TO 5.5 PERCENT OR LESS FOR FULL YEAR. INITIATIVE STATUTE.

## SUMMARY

*Put on the Ballot by Petition Signatures*

Prohibits State, even during severe fiscal hardship, from delaying distribution of tax revenues for these purposes. Fiscal Impact: Decreased state General Fund spending and/or increased state revenues, probably in the range of \$1 billion to several billions of dollars annually. Comparable increases in funding for state and local transportation programs and local redevelopment.

## WHAT YOUR VOTE MEANS

**YES** A YES vote on this measure means: The state's authority to use or redirect state fuel tax and local property tax revenues would be significantly restricted.

**NO** A NO vote on this measure means: The state's current authority over state fuel tax and local property tax revenues would not be affected.

## ARGUMENTS

**PRO** YES on 22 stops state politicians from taking local government funds. 22 stops the State from taking gas taxes voters have dedicated to transportation. 22 protects local services: 9-1-1 emergency response, police, fire, libraries, transit, road repairs. Supported by California Fire Chiefs Association, California Police Chiefs Association, California Library Association.

**CON** California's teachers, firefighters, nurses, and taxpayer advocates say NO on 22. If 22 passes, public schools stand to lose billions of dollars. 22 takes money firefighters use to fight fires and natural disasters while protecting redevelopment agencies and their developer friends. Another proposition that sounds good, but makes things worse.

## FOR ADDITIONAL INFORMATION

**FOR**  
Yes on 22, Californians to Protect Local Taxpayers & Vital Services  
1121 L Street #803  
Sacramento, CA 95814  
(888) 562-5551  
info@savelocalservices.com  
www.SaveLocalServices.com

**AGAINST**  
No on 22—Citizens Against Taxpayer Giveaways, sponsored by California Professional Firefighters.  
Joshua Heller  
1510 J Street, Suite 210  
Sacramento, CA 95814  
(916) 443-7817  
www.votenoprop22.com

## SUMMARY

*Put on the Ballot by Petition Signatures*

Fiscal Impact: Likely modest net increase in overall economic activity in the state from suspension of greenhouse gases regulatory activity, resulting in a potentially significant net increase in state and local revenues.

## WHAT YOUR VOTE MEANS

**YES** A YES vote on this measure means: Certain existing and proposed regulations authorized under state law ("Assembly Bill 32") to address global warming would be suspended. These regulations would remain suspended until the state unemployment rate drops to 5.5 percent or lower for one year.

**NO** A NO vote on this measure means: The state could continue to implement the measures authorized under Assembly Bill 32 to address global warming.

## ARGUMENTS

**PRO** Yes on 23 saves jobs, prevents energy tax increases, and helps families, while preserving California's clean air and water laws. California can't afford self-imposed energy costs that don't reduce global warming. 2.3 million Californians are unemployed; Proposition 23 will save over a million jobs that would otherwise be destroyed. [www.yeson23.com](http://www.yeson23.com)

**CON** Texas oil companies designed 23 to kill clean energy and air pollution standards in California. 23 threatens public health with more air pollution, increases dependence on costly oil, and kills competition from job-creating California wind and solar companies. American Lung Association in California, California Professional Firefighters: NO on 23.

## FOR ADDITIONAL INFORMATION

**FOR**  
Yes on 23—A coalition of taxpayers, small business, firefighters, labor, agriculture, transportation, food producers, energy and forestry companies and air quality officials.  
1215 K Street, Suite 2260  
Sacramento, CA 95814  
(866) 247-0911  
info@yeson23.com  
www.yeson23.com

**AGAINST**  
No on 23: Californians to Stop the Dirty Energy Proposition  
(888) 445-7880  
info@factson23.com  
Factson23.com

# QUICK-REFERENCE GUIDE

**PROP 24** REPEALS RECENT LEGISLATION THAT WOULD ALLOW BUSINESSES TO LOWER THEIR TAX LIABILITY. INITIATIVE STATUTE.

## SUMMARY

*Put on the Ballot by Petition Signatures*

**Fiscal Impact:** Increased state revenues of about \$1.3 billion each year by 2012–13 from higher taxes paid by some businesses. Smaller increases in 2010–11 and 2011–12.

## WHAT YOUR VOTE MEANS

**YES** A YES vote on this measure means: Three business tax provisions will return to what they were before 2008 and 2009 law changes. As a result: (1) a business will be less able to deduct losses in one year against income in other years, (2) a multistate business will have its California income determined by a calculation using three factors, and (3) a business will not be able to share tax credits with related businesses.

**NO** A NO vote on this measure means: Three business tax provisions that were recently changed will not be affected. As a result of maintaining current law: (1) a business will be able to deduct losses in one year against income in more situations, (2) most multistate businesses could choose to have their California income determined based only on a single sales factor, and (3) a business will be able to share its tax credits with related businesses.

## ARGUMENTS

**PRO** Prop. 24 stops \$1.7 billion in new special tax breaks for wealthy, multi-state corporations. They get unfair tax loopholes without creating one new job while small businesses get virtually no benefit. Public schools, healthcare and public safety should come before tax loopholes. Vote YES on 24—the Tax Fairness Act.

**CON** CALIFORNIA NEEDS JOBS, NOT A JOBS TAX! Prop. 24 doesn't guarantee \$1 for our classrooms and REDUCES long-term revenues for schools and vital services. It would hurt small businesses, tax job creation, send jobs OUT of California—costing us 144,000 jobs. Families can't afford 24's new taxes. No on 24!

## FOR ADDITIONAL INFORMATION

**FOR**  
Yes on 24, the Tax Fairness Act sponsored by the California Teachers Association  
Richard Stapler  
1510 J Street, Suite 210  
Sacramento, CA 95814  
(916) 443-7817  
[www.YESPROP24.ORG](http://www.YESPROP24.ORG)

**AGAINST**  
No on 24—Stop the Jobs Tax, a coalition of taxpayers, employers, small businesses, former educators and high tech and biotechnology organizations  
111 Anza Boulevard, #406  
Burlingame, CA 94010  
(800) 610-4150  
[info@stopprop24.com](mailto:info@stopprop24.com)  
[www.StopProp24.com](http://www.StopProp24.com)

**PROP 25** CHANGES LEGISLATIVE VOTE REQUIREMENT TO PASS BUDGET AND BUDGET-RELATED LEGISLATION FROM TWO-THIRDS TO A SIMPLE MAJORITY. RETAINS TWO-THIRDS VOTE REQUIREMENT FOR TAXES. INITIATIVE CONSTITUTIONAL AMENDMENT.

## SUMMARY

*Put on the Ballot by Petition Signatures*

Legislature permanently forfeits daily salary and expenses until budget bill passes. **Fiscal Impact:** In some years, the contents of the state budget could be changed due to the lower legislative vote requirement in this measure. The extent of changes would depend on the Legislature's future actions.

## WHAT YOUR VOTE MEANS

**YES** A YES vote on this measure means: The Legislature's vote requirement to send the annual budget bill to the Governor would be lowered from two-thirds to a majority of each house of the Legislature.

**NO** A NO vote on this measure means: The Legislature's vote requirement to send an annual budget bill to the Governor would remain unchanged at two-thirds of each house of the Legislature.

## ARGUMENTS

**PRO** Prop. 25 reforms California's broken state budget process. Holds legislators accountable for late budgets by stopping their pay and benefits every day the budget is late. Ends budget gridlock by allowing a majority of legislators to pass the budget, but DOES NOT LOWER THE 2/3 vote required to raise taxes.

**CON** Politicians and special interests are promoting Prop. 25 to make it easier for politicians to raise taxes and restrict our constitutional right to reject bad laws. 25 doesn't punish politicians. They'll just increase their lavish expense accounts. NO on 25—Protect constitutional safeguards against higher taxes and wasteful spending.

## FOR ADDITIONAL INFORMATION

**FOR**  
Yes on 25, Citizens for an On-Time Budget sponsored by teachers, nurses, firefighters and other public employee groups  
Andrea Landis  
1510 J Street, Suite 210  
Sacramento, CA 95814  
(916) 443-7817  
[www.YESPROP25.ORG](http://www.YESPROP25.ORG)

**AGAINST**  
Stop Hidden Taxes—No on 25/Yes on 26, a coalition of taxpayers, small businesses, environmental experts, good government groups, minorities, farmers, and vineyards.  
(866) 218-4450  
[info@nomorehiddentaxes.com](mailto:info@nomorehiddentaxes.com)  
[www.no25yes26.com](http://www.no25yes26.com)

# QUICK-REFERENCE GUIDE

**PROP 26** REQUIRES THAT CERTAIN STATE AND LOCAL FEES BE APPROVED BY TWO-THIRDS VOTE. FEES INCLUDE THOSE THAT ADDRESS ADVERSE IMPACTS ON SOCIETY OR THE ENVIRONMENT CAUSED BY THE FEE-PAYER'S BUSINESS. INITIATIVE CONSTITUTIONAL AMENDMENT.

**SUMMARY** *Put on the Ballot by Petition Signatures*

**Fiscal Impact:** Depending on decisions by governing bodies and voters, decreased state and local government revenues and spending (up to billions of dollars annually). Increased transportation spending and state General Fund costs (\$1 billion annually).

## WHAT YOUR VOTE MEANS

**YES** A YES vote on this measure means: The definition of taxes would be broadened to include many payments currently considered to be fees or charges. As a result, more state and local proposals to increase revenues would require approval by two-thirds of each house of the Legislature or by local voters.

**NO** A NO vote on this measure means: Current constitutional requirements regarding fees and taxes would not be changed.

## ARGUMENTS

**PRO** Yes on 26 stops state and local politicians from raising Hidden Taxes on goods like food and gas, by disguising taxes as "fees" and circumventing constitutional requirements for passing higher taxes. Don't be misled. 26 preserves California's strong environmental and consumer laws AND protects taxpayers and consumers from Hidden Taxes.

**CON** Big oil, tobacco, and alcohol corporations want you to pay for the damages they cause. Prop. 26 was written behind closed doors and without public input. Don't protect polluters. League of Women Voters of California, Firefighters, Police Officers, Nurses, and Sierra Club all say NO on 26.

## FOR ADDITIONAL INFORMATION

**FOR**  
Stop Hidden Taxes—No on 25/Yes on 26, a coalition of taxpayers, small businesses, environmental experts, good government groups, minorities, farmers, and vineyards.  
(866) 218-4450  
info@nomorehiddentaxes.com  
www.no25yes26.com

**AGAINST**  
Doug Linney  
Taxpayers Against Protecting Polluters  
1814 Franklin Street, Suite 510  
Oakland, CA 94612  
(510) 444-4710  
stopprotectingpolluters@gmail.com  
www.stoppolluterprotection.com

**PROP 27** ELIMINATES STATE COMMISSION ON REDISTRICTING. CONSOLIDATES AUTHORITY FOR REDISTRICTING WITH ELECTED REPRESENTATIVES. INITIATIVE CONSTITUTIONAL AMENDMENT AND STATUTE.

**SUMMARY** *Put on the Ballot by Petition Signatures*

Eliminates 14-member redistricting commission. Consolidates authority for establishing state Assembly, Senate, and Board of Equalization districts with elected representatives who draw congressional districts. **Fiscal Impact:** Possible reduction of state redistricting costs of around \$1 million over the next year. Likely reduction of these costs of a few million dollars once every ten years beginning in 2020.

## WHAT YOUR VOTE MEANS

**YES** A YES vote on this measure means: The responsibility to determine the boundaries of State Legislature and Board of Equalization districts would be returned to the Legislature. The Citizens Redistricting Commission, established by Proposition 11 in 2008 to perform this function, would be eliminated. (Proposition 20 on this ballot also concerns redistricting issues. If both Proposition 27 and Proposition 20 are approved by voters, the proposition receiving the greater number of "yes" votes would be the only one to go into effect.)

**NO** A NO vote on this measure means: The responsibility to determine the boundaries of Legislature and Board of Equalization districts would remain with the Citizens Redistricting Commission.

## ARGUMENTS

**PRO** VOTE YES ON 27 TO SAVE TAXPAYER DOLLARS AND END NONSENSE REAPPORTIONMENT GAMES. California is in crisis. We are broke, deeply in debt, unemployment is far too high. Proposition 27 is the only chance for voters to say "Enough is enough! Stop wasting taxpayer dollars on nonsense." Yes on 27.

**CON** Politicians behind 27 want to repeal the voter-approved Citizens Redistricting Commission. They want the power to draw safe districts for themselves and will spend or say anything to get it back. Don't buy it. TAXPAYER GROUPS, GOOD GOVERNMENT GROUPS, SENIORS SAY STOP THE POWER GRAB: NO on 27.

## FOR ADDITIONAL INFORMATION

**FOR**  
Yes on 27  
10940 Wilshire Boulevard,  
Suite 2000  
Los Angeles, CA 90024  
(310) 576-1233  
www.yesprop27.org

**AGAINST**  
Yes on 20, No on 27—Hold Politicians Accountable, a coalition of taxpayers, seniors, good government groups, small business and community organizations.  
925 University Ave.  
Sacramento, CA 95825  
(866) 395-6121  
email@yes20no27.org  
www.noprop27.org